

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

OA NO. 114/86

SHRI NARENDER SINGH OBRAI

APPLICANT

*June 1, 1990*  
*31 May, 1990*

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI B.S. MAINEE

ADVOCATE FOR THE APPLICANT

SHRI O.N. MOOLRI

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

[Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A)]

The grievance of Shri Narender Singh Obrai, applicant in this case briefly is that the respondents have withheld a sum of Rs.4,194/- from his death-cum-retirement gratuity (DCRG) and have not paid him leave encashment amounting to Rs.12,600/- equivalent to pay of 180 days due to him. Aggrieved by the above he has filed this application on 22.1.1986 under Section 19 of the Administrative Tribunals Act, 1985.

2. The applicant retired from service as Guard 'A' from Saharanpur, Northern Railway on 30.11.1984 on reaching the age of superannuation. He served a notice on the respondents on

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8.8.1985 to seek release of the above amounts said to be due to him, but there was no response. By way of interim relief the applicant has prayed that the respondents be directed to make a payment of Rs.4,194/- towards balance of DCRG and Rs. 12,600/- on account of leave encashment togetherwith interest pendentelite.

3. The respondents on the other hand, have contended that the amount of Rs.4,194 withheld from his DCRG was adjusted towards the recovery of excess payment made to the applicant on account of half pay leave and leave without pay for which period he had been paid full wages by Station Superintendent, Saharanpur. Regarding his claim for leave encashment equivalent to wages of 180 days, it has been submitted that no leave was due to the applicant at the time of retirement and, therefore, no leave encashment was allowed. The respondents have furnished a statement at Annexure R/2 (page 14 of the paper book) showing the leave account of the applicant. It has also been averred by the respondents and admitted by the applicant that all other dues except those claimed in the two disputed claims relating to terminal benefits etc. have been paid to the applicant.

Shri D.N. Moolri, Counsel for the respondents in the course of his argument brought out that the disputed claims of the applicant were discussed in the Pension Adalat held at Baroda House on 1.8.86 when the leave account of the applicant, was checked thoroughly in his presence when he confirmed that his leave account was in order. It was, therefore, averred that no payment of leave encashment was due to him. Further the applicant had given a signed acknowledgement, a photo copy of which has

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also been filed by the learned Counsel for the respondents. The proceedings of the Pension Adalat are recorded as under:-

"As ordered by the Pension Adalat on 1.8.86, DPI was deputed to verify the leave account of Shri Narinder Singh, Guard, from the available record in presence of Shri Narinder Singh. The leave account for the period 8.9.79. to 30.11.84 was checked thoroughly in presence of Shri Narinder Singh and it was found that he has been paid 34 days excess leave encashment. Shri Narinder Singh may be asked to deposit Rs.2230.45 which has been paid excess to him."

Thus, Shri Narender Singh Oberai, the applicant not only has no case for the amounts claimed by him but in fact has to pay back to the respondents 34 days wages as excess leave encashment by depositing an amount of Rs.2230.45/-. In token of the verification of the leave record, the applicant had given the acknowledgement as under:-

"The entries of LAP availed as per entry of leave account from 1.1.76 to 6.9.79 have been supplied to him."

It is apparent from the record of the Pension Adalat as detailed above that the applicant's claim of leave encashment was not sustainable as made out by the learned Counsel for the respondents.

3. Shri B.S. Mainee, learned Counsel for the applicant on the other hand, pleaded that in accordance with the Railway

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Board's letter No. E(P&A)1-76/CPC/LE-3 dated 11.3.1977 the respondents are required to indicate the balance of leave at credit of the employees whenever leave is sanctioned in the sanction order itself. He contended that at no time such an intimation indicating balance LAP at his credit was given to the applicant. His personal record of leave maintained personally by him, however indicates that he had leave on average to his credit when he retired on superannuation on 30.11.1984.

4. Keeping in view the nature of the claim of the applicant and the contentions of the respondents we had directed the learned Counsel for the respondents to produce the leave account, which is a catalogue of leave earned and leave availed of from time to time, for the perusal of the Court on 19.4.1990. The leave account of the applicant was accordingly produced by the learned Counsel for the respondents on 23.5.1990. On perusal of the record, we observe that as on 30.11.1984 i.e. the date of retirement of the applicant, 97 days LAP was at the credit of the applicant. Below the balance the following endorsement has also been made by the office of the respondents:-

"checked subject to final verification by the Accounts Office."

The learned Counsel for the respondents was not able to produce any material to show if the Accounts Office had raised any objection regarding the amount of leave shown at the credit of the applicant.


In absence of any material justifying the withholding of the amount of Rs.4,194/- from DCRG due to the applicant and

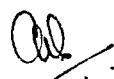
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amount shown as due from him on account of excess payment for leave availed of in excess of entitlement, we are of the view that the applicant is due encashment of leave equivalent to 97 days wages as per verified credit in his leave account in accordance with the rules and payment of Rs.4,194 withheld from his DCRG for alleged excess leave availed of.

5. In the facts of the case we order and direct that respondents shall make payment of Rs.4,194/-, the balance amount withheld from the DCRG of the applicant and payment of leave encashment equivalent of 97 days wages within eight weeks from the date of communication of this order.

There will be no orders as to the costs.

  
(I.K. Rasgotra)  
Member(A)

  
(Amitav Banerji)  
Chairman