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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1961/90. DATE OF DECISION: 14-5-1991.

R.K. Kaura APPLICANT.

V/s.

Union of India RESPONDENTS.

CORAM: Hon'ble Mr. P.C. Jain, Member (A).
Hon'ble Mr. J.P. Sharma, Member (J).

Applicant in person.

Shri B.M. Mani, counsel for the respondents.

(Judgment of the Bench delivered by
Hon'ble Mr. P.C. Jain, Member (A)).

JUDGMENT.

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who was working as Junior Research Officer in the Ministry of Railways (Railway Board) and has taken voluntary retirement with effect from 30.11.1988, has prayed for the following relief: -

"The shortfall of 68 days (240 - 172 = 68 days) for full benefit of 240 days encashment of leave as permissible under Rule 10 of C.C.S. (Leave) Rules, 1972 may be allowed by conversion of the requisite spells of leave periods (to the extent of 68 days) as mentioned in my first request for L.A.P. into L.H.A.P. prior to my retirement on 30.11.1988 as made in my application dated 25.10.1988 (Annex. A-3). The difference of pay etc. with interest at the normal bank rate from the date of retirement i.e. 30.11.1988 to the actual date of payment after allowing a period of 3 months for execution, be allowed ipso facto. Prayer is made accordingly."

2. The facts of the case, in brief, are as under: -

Prior to his voluntary retirement from the post of Junior Research Officer in the Ministry of Railways (Railway Board), the applicant requested on 25.10.88 for conversion of the following spells of L.A.P./M.C. into commuted leave (Annexure-I to the counter reply): -

(A) (i) 21.11.72 to 23.12.72 = 33 days
(ii) 5.10.72 to 13.10.72 = 9 days

In the same application, he requested for the following periods to be treated as L.H.A.P.: -

(B) (i) 15.4.1974 to 10.5.1974 = 26 days.
(ii) 5.12.1974 to 24.12.74 = 20 days.
(iii) 29.3.1976 to 17.4.1976 = 20 days.
(iv) 10.4.1978 to 11.5.1978 = 32 days.
98 days.

On the date of his retirement i.e., 30.11.1988, he had only 103 days' L.A.P. at his credit. In his application dated 21.4.1989 (Annexure A-4), the applicant requested the respondents that he might be paid for the period for which there was no dispute or difficulty and the rest of the period might be processed subsequently so that he might get the maximum benefit as a consideration of gratitude. Vide order dated 14.6.1989 (Annexure A-2), payment for encashment of leave on average pay for 172 days or less as due and admissible on the date of retirement under the rules was authorised in favour of the applicant. The applicant appears to have received payment for 172 days of encashment of leave. The maximum period for which leave encashment is permissible is 240 days. In order to take full benefit of encashment of leave, he prays for conversion of the requisite spells of leave periods to the extent of 68 days.

3. The applicant sent another letter dated 22.8.1989 (Annexure A-5) to the Railway Board praying for conversion of the following two periods into H.A.P., as according to his information the records for these periods are available with P&AO: -

(i) 29.3.1976 to 17.4.1976 = 20 days.
(ii) 10.4.1978 to 11.5.1978 = 32 days.
52 days.

In reply to the aforesaid letter, the applicant, vide the impugned Memorandum dated 4.1.1990, has been informed that his request for conversion of 52 days LAP into LHP has been carefully examined and the same has not been

agreed to. In their counter-reply, the respondents have stated that the records of the said period are not available and as it involves financial adjustment, it cannot be done without complete relevant records. They have also stated that the conversion of leave cannot be claimed as a matter of right but is the discretion of the competent authority. In exercise of the said discretion certain periods of leave have already been converted and certain periods could not be converted in absence of records. Thus the discretion has been exercised after full consideration of the facts of the case.

4. We have gone through the record of the case and have heard the applicant, who appeared in person and the learned counsel for the respondents.

5. The applicant asserted at the bar that the record of his leave is available in the ledgers which are to be retained permanently and accordingly prayed for a direction to be given to the respondents for reconsideration of his claim.

6. In view of the above, we dispose of this O.A. with a direction to the respondents to make another attempt to trace out the old records and if the relevant records are available from which the respondents can get particulars which are necessary for taking a decision on the claim of the applicant, the same may be reconsidered and final orders passed thereon within a period of three months from the date of receipt of a copy of this order. We leave the parties to bear their own costs.

J. P. SHARMA
(J.P. SHARMA)
Member (J)

Dec. 14/5/1991
(P.C. JAIN)
Member (A)