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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

.....

REGN NO.. 1964/90

DATE OF DECISION: 10.04.1992.

SHRI LACHMI CHAND

..... APPLICANT

VERSUS

UNION OF INDIA & ORS.

..... RESPONDENTS

CORAM:-

THE HON'BLE MR. S.P. MUKERJI, VICE-CHAIRMAN

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

COUNSEL FOR THE APPLICANT : MS. SUMAN BAGGA
COUNSEL FOR THE RESPONDENTS : SH. SHYAM MOORJANI

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporters or not?

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(J).

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, applicant's grievance is that he has not been paid leave encashment in respect of 199 days of his Earned Leave, out of 240 days of the total leave, for which he should have been paid the leave encashment. His case is that he joined Railway service on 29.11.1950 as Khalasi, and all his service, thereafter, is continuous, and after deducting whatever leave he might have availed of during the period of his entire service, there should have been a net balance of more than 240 days, and therefore, according to the existing Rules, he ought to have been paid leave encashment for 240 days, instead of, for 43 days, for which he has

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been paid by the respondents. His case further is that inspite of representations, in this respect, and also legal notice sent to the respondents, nothing worthwhile has been done by the respondents, and hence this O.A.

2. The respondents have opposed the applicant's case, by filing their counter, to which rejoinder has also been filed.

3. The main plea opposing the applicant's case, as put forth by the respondents, in the counter, is that as per leave account maintained by the respondents, there was a balance of 27 days leave to the credit of the applicant, as on 31.12.1965, which has been accounted for, while calculating the leave due and availed of by him during the period, subsequent to this date, and being the official record, there is a presumption about the same having been maintained correctly, in the normal official course. In support of this contention, the respondents have also placed on record page-1 of the leave account in respect of the applicant, which also indicates, at its top, name of the applicant, together with the date of his joining, and thus, leaves no doubt about the same being genuine and properly maintained in the office of the respondents. The respondents have also contended that no agitation or grouse was expressed by the applicant, at the time of his superannuation, and receiving whatever retiral benefits were paid to him, including the leave encashment, but, he seems to have become wiser, from the fact that the service record in respect of the applicant for the period

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from 29.11.1950 to 31.12.1985 was not available with the respondents, and for which he was called upon to file collateral evidence in respect thereof. In other words, according to the respondents, the applicant is taking advantage of the situation that regular service record in respect of the applicant is not available with the respondents and is thereby making an issue in respect of the leave encashment, not having been paid to him in respect of the leave for the period for which service record is not available i.e. 29.11.1950 to 31.12.1965.

4. In the rejoinder filed by the applicant, he has reiterated his earlier stand, as put forth in the O.A., submitting, that the leave whatever has been shown for the period i.e. 29.11.1950 to 31.12.1965 has not been properly worked out, and no benefit can accrue to the respondents on account of the fact that the applicant had received the payment of retiral benefits, after his retirement from service, as it can, by no means, amount to acquiescence on his part, and he can press for his entitlements/claim, at any point of time.

5. We have also heard the learned counsel for both the parties and carefully gone through the material on record. It goes without saying that the calculations in the leave account are carried forward, by showing the leave due and deducting the leave availed of. A look at Page 1 of the leave account alongwith Annexure R-1, the latter being the concluding portion of the leave account, shows that the same is continuous record of the leave falling due and availed of by the applicant during his service period. Having maintained in the normal official course, it has the presumption that it

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has been correctly maintained. No circumstances have been put forth on behalf of the applicant, which may go to create doubt with regard to its correctness. We, therefore, find no occasion or reason to find force in any of the submissions made in the O.A. which, accordingly, is dismissed.

6. We, however, make no order as to costs.

Seen 10.4.92
(T.S. OBEROI)
MEMBER(J)

S.P. Mukerji
10.4.92
(S.P. MUKERJI)
VICE-CHAIRMAN

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