

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

OA NO. 374/90

MAY 2, 1990

SHRI RAJ KUMAR MANCHANDA

APPLICANT

SHRI M.L. CHAWLA

COUNSEL FOR THE APPLICANT

VERSUS

UNION OF INDIA

RESPONDENTS

SHRI V.K. GUPTA

COUNSEL FOR THE RESPONDENTS

Coram:

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

ORDER

There are two short points raised in this OA. We deal with them as under:-

i) The respondents have denied the encashment of leave due on the basis of Government of India's, Department of Personnel & Training OM No. 13018/6/86-Estt(L) dated 28.3.1988, relevant portion of which is produced in the statement filed on ~~30th~~ April, 1990. This order however, is applicable only to the appointments made in the Vacation Department. The applicant in this case was appointed in a hospital of the Delhi Administration. The relevant authority to regulate encashment of leave would be under Rule 39 and Sub-Rule 6 a(i) which is reproduced below:-

"Where the services of a Government servant are terminated by notice or otherwise in accordance with the terms and conditions of his appointment, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date on which he ceases to be in service."

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a maximum of (240) days;"

ii) Accordingly we hold that the applicant is entitled to leave encashment as due to him for the period of service rendered during the three years of tenure service.

2. The second issue relates to grant of adhoc bonus for the year 1986-87. We find from the Government of India, Department of Expenditure, OA No.F-14(1)-E-(Coord) 87 dated September 3, 1987 that eligibility for bonus for the year 1986-87 is regulated by the following provisions:-

"Only those employees who were in service on 31.3.1987 and have rendered at least 6 months of continuous service during the year 1986-87 will be eligible for payment under these orders....."

(i) The applicant does not fulfil the conditions of eligibility laid down for payment of adhoc bonus for the year 1986-87, as his tenure appointment expired prior to 31.3.1987. Since he was not in service on the crucial date viz. 31.3.1987 his claim does not merit our intereference.

We, however, feel that respondents may consider the representation of the applicant for grant of adhoc bonus in view of the peculiar facts of the case. The applicant had worked during the financial year 1986-87 for a period of about 9 months yet he is not entitled to proportionate adhoc bonus for that year as he was not in position on 31.3.1987 due to reasons beyond his control. While the case does not fall in the general pattern laid down in the policy document, it has features that merit consideration as an exception.

3. Accordingly we order and direct the respondents to make payment of the leave encashment as due to the applicant within a period of four weeks from the date

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of communication of this order, the applicant shall be entitled to interest at the rate of 12% for the delayed period in making the payment.

We, however, leave it to respondents to consider the grant of proportionate adhoc bonus for the year 1986-87 to the applicant in the exceptional circumstances of the case, as observed in paragraph 2 above.

The OA is disposed of with the above directions. There will be no orders as to the costs. A copy of this order be given Dasti to the party.

I.K. Rasgotra

Member (A)

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D.S.
(T.S.Oberoi)

Member (J)