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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 96/1990.      DATE OF DECISION: 26-9-1991.

D.P. Shalla                      .....      Applicant.

V/s.

Union of India & Ors. ...      Respondents.

CORAM: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).  
          Hon'ble Mr. P.C. Jain, Member (A).

Shri V.P. Sharma, counsel for the Applicant.  
Shri Inderjit Sharma, counsel for the Respondents.

P.C. JAIN, MEMBER:                      JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who has since retired on superannuation with effect from 31.1.1990, prayed for a direction to the respondents to pay to him his salary dues with effect from August, 1989, and that he be allowed the costs of the application.

2.            The facts of the case, in brief, are that the applicant joined the Railway Department on 12.11.1955. On 5.7.1989, he was relieved by the Station Superintendent, Sadulpur, with a direction to report for duty to the Divisional Commercial Superintendent at Bikaner, vide Annexure A/1 to the O.A. According to the applicant, in the year 1986, when he had been working as Signaller, he, along with many other Signallers, was rendered surplus to be absorbed in some other alternative job. He was accordingly posted at Sadulpur as Ticket Collector, but later on, he was ordered to be absorbed in some other post and was called for screening. He challenged the said order of screening before the Jodhpur Bench of this Tribunal and the said case is still pending. The relief claimed in the O.A. pending before the Jodhpur Bench is not relevant to the instant O.A. in so far as the applicant has prayed for his salary dues with effect from August, 1989 only in this O.A., which, according to him, have not been paid to him.

3. The case of the applicant is that in compliance with the orders of the respondents dated 5.7.1989 (Annexure A/1), he did report for duty at D.R.M. Office, Bikaner on 6.7.1989. Meanwhile, however, he fell ill and remained under treatment at Lalgarh Railway Hospital and at Sadulpur for some period, vide Annexures A/18 to A/20. He has also annexed copies of some of his letters alleged to have been written by him to the respondents to substantiate that he had been at Bikaner since 6.7.1989 awaiting for orders. He also states that he had got 300 days' leave to his credit.

4. The case of the respondents is that the applicant did not report for duty at Bikaner in accordance with the orders given to him, vide letter dated 5.7.1989, by the Station Superintendent, Sadulpur. He remained on sick list of A.D.M.O., Sadulpur and in support thereof, the respondents have produced copies of the sick/discharge certificates of the A.D.M.O., Sadulpur as also a copy of the letter dated 22.11.89 from the Station Superintendent, Sadulpur to the Senior Divisional Operating Superintendent, Bikaner (Annexure R-I). Thus, according to the respondents, since the applicant remained absent without leave/intimation from the period from 6.7.89 to 31.1.90, his leave for the following periods had been treated as leave without pay: -

27.7.89 to 31.7.89  
1.8.89 to 17.11.89  
1.12.89 to 8.1.90.

The period from 18.11.89 to 30.11.89 was treated as Commuted Leave. In the written statement, the respondents have also stated that the applicant had the following leave to his credit as on 31.1.1990 i.e., the date on which he retired on superannuation: -

Leave on Average Pay	=	217 days.
Leave on Half Average Pay	=	36 days.

5. We have gone through the record of the case and heard the learned counsel for the parties. We feel that the case can be disposed of at the admission stage itself and it should not be prolonged any further.

6. Along with his O.A., the applicant submitted Annexures A/13, A/14 and A/15 to show that he had been at Bikaner since 6.7.1989 awaiting for his posting orders, but the learned counsel for the respondents stated at the bar that the said communications alleged to have been sent to the respondents are not available on the record of the respondents. He, however, stated that the period from 6.7.1989 to 26.7.1989 was treated as on duty and the period from 18.11.89 to 30.11.89 was treated as Commuted Leave on medical ground. With a view to verifying the veracities of their statements, we thought it essential to call for the departmental record. The respondents have produced the Service File as also the Leave Account of the applicant. The Service File shows that the applicant has already been sanctioned a sum of Rs.17,768/- for 204 days LAP, vide Supplementary Bill of Balance LAP POP-3/729-E3 of 22.2.90. On the other hand, the applicant has not been able to produce any valid proof to substantiate his version that he continued to attend office even during the period which has been treated as leave without pay.

7. In view of the foregoing discussion, we conclude that the applicant is not being denied his legal and just dues. If any deductions are made on settlement of his period(s) of absence from duty, that cannot be construed as illegal or unjust. The respondents are, however, directed to ensure that if any further amount towards arrears of pay for the period from August, 1989 till the date of retirement of the applicant after settlement of the period(s) of leave/absence, is due to the applicant, the same shall be paid to him within a period of two months from the date of this order. The O.A. is disposed of accordingly at the admission stage itself. There shall be no order as to costs.

(P.C. JAIN)  
Member(A)

(RAM PAL SINGH)  
Vice Chairman(J)