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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1064/93.

New Delhi this the 6th Day of April, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri Prabhati Lal,
S/o late Sh. Kishna,
R/o B-21, Banda Bahadur
Apartment, Sector-14,
Rohini, Delhi-85. Applicant

(By advocate Sh. S.R. Dwivedi)

versus

1. Union of India,
through the Secretary,
Department of Post,
Ministry of Communication,
Dak Bhawan,
New Delhi-1.
2. The Chief Post Master General,
Delhi Postal Circle,
Meghdoot Bhavan,
New Delhi-1. Respondents

(By advocate Sh. Yashvir Singh, proxy counsel for
Sh. K.C. Mittal)

ORDER(ORAL)

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri Prabhati Lal who retired as Asstt.
Post Master General, Delhi Postal Circle on 30.4.92
is aggrieved that he has not been extended the benefit
of Rule 32(1)(b) for conversion of earned leave for
80 days into H.P.L. from 15.1.1974 to 4.4.1974. He
had applied for conversion in terms of Rule 32(b)
which allowed extra ordinary leave to be granted to
a government servant with other leave which is
admissible but the government servant applies in
writing for the grant of extra ordinary leave. He
had submitted such an application on the basis of
which by order dated 22.2.92 such conversion was

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permitted under the provisions of Rule 10 of CCS (revised) Leave Rules. Rule 10 provides that at the request of a government servant, the authority which granted him leave may commute it retrospectively into leave of a different kind which was due and admissible to him at the time the leave was granted, but the Government servant cannot claim such commutation as matter of right. The Government of India decision appended to Rule 10 clarified that such conversion can't be allowed if the Government servant is in service.

On 25.5.92, the impugned order was issued which declared the earlier order issued on 20.2.92 that as irregular on the ground ^{that} as per Rule 32(5) of CCS (Leave) Rules, 1972 "two spells of extraordinary leave, if intervened by any other kind of leave, shall be treated as one continuous spell of extraordinary leave for the purposes of sub-rule."

As the applicant had availed of E.L. from 28.2.83 to 29.5.83, this period has already been treated as E.O.L. The learned counsel for the applicant has argued that Rule 32(2) is not applicable in his case; ^{it} it applies only to those employees who are not permanent employee or are quasi permanent. Rule 5 makes it clear that two spells of extraordinary leave, if intervened by any other kind of leave, shall be treated as continuous spell of extraordinary leave for the purposes of sub-rule(2). If sub-rule(2) is not applicable to permanent employee then sub-rule(5) is also inapplicable.

It is clear from the above submissions that sub-rule(2) as well as sub-rule(5) are not applicable

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in the case of permanent government servants. The impugned order dated 25.5.92 is, therefore, not sustainable as the applicant¹⁶ admitted¹⁷ly a permanent employee. It is hereby quashed, with the result that the earlier order dated 29.2.92 shall stand and the leave account will be calculated accordingly. These orders shall be implemented expeditiously and preferably within a period of four months from the date of communication of this order.

No costs.

/vv/

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)