

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1227 of 1997.

Monday this the 24th day of March 2003.

Hon'ble Mr. Justice RRK TRIVEDI, V.C.

Moinuddin Ahmad
S/o Abdul Wahab
R/o Kassab Mohal, Mughalsarai,
Varanasi.

.....Applicant.

(By Advocate: Sri S.K. Dey/Sri S.K. Mishra)

Versus.

1. Union of India
through the General Manager,
E. Rly, Calcutt-1.
2. The Divisional Rly, Manager,
E. Rly, Mughalsarai.

.....Respondents.

(By Advocate: Sri G.P. Agrawal)

ORDER

By this O.A., filed under Section 19 of Administrative
Tribunals Act 1985, applicant has prayed for direction
to respondents to make payment ^{of} his ^{of} due retirement benefits
namely Provident Fund Account, kept back amount of DCRG
alongwith recovered amount Rs.2194.75/- leave encashment
of 240 days and salary for sick period from 6.10.89 to
3.8.90.



.....2/-

2. The facts of the case are that the applicant was serving as Ticket Collector in Assansol Division. He was retired from service on the ground of being medical unfit on 29.08.90 as Head T.T.E.. Respondents filed counter and denied the claim of the applicant. In para 9 of the counter affidavit, it was mentioned that the amount of Rs.8000 which was withheld for unforeseen recoveries, the same was released for payment on 21.9.91. The applicant, however, denied the payment of this amount then this Tribunal passed an order on 01.02.02 directing the respondents to bring on record the original leave account of the applicant for the period of 89-90 till date of his retirement. P.F. account was also required to be placed. The Tribunal also noticed that the amount of Rs.8000/- was paid to the applicant, ~~but~~ liberty ^{was given to} the learned counsel for the applicant to ascertain the fact from the applicant and file the affidavit. The applicant, accordingly filed affidavit dated 11.2.2002 denying that the amount of Rs.8000/- was ever paid to him. The learned counsel for the respondents has placed before me today a photostat copy of the order for payment of Rs.8000/- which was passed on 29.10.91 and on the back of it, the receipt has been given by the applicant acknowledging the receipt of cheque of Rs.8000/- Cheque number has also been mentioned, Revenue stamp has also affixed. Thus, there remains no doubt that the amount was actually received by the applicant and he has deliberately given incorrect affidavit in



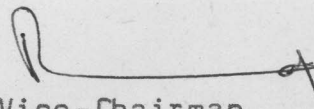
.....3/-

this Tribunal. Normally he should have been prosecuted for filing false affidavit, but he is a retired Government Employee, I do not find this case fit for taking this drastic action.

3. The dispute remains for leave encashment, respondents have filed account of leave as C.A.-1. In this account the balance of leave as on 1.7.89 was for 288 days. It is true that this account does not possess figures relating to period between 1957 to 1962 when the applicant was serving in Assansol Division, but ^{from} the fact that the balance has been shown of 288 days, inference may be drawn that the account was being maintained continuously. The applicant has ^{not} brought on record any material to show that the figure mentioned is incorrect or incomplete. The 288 days leave has been consumed by the applicant within short span of 3.12.89 to 29.8.90 as he was suffering from ailment, ^{possibility} cannot be ruled out that ~~x~~ earlier also, he was frequently taking leave and thus there was only a balance of 288 days.

4. Considering the facts and circumstances of the case, I do not find that the applicant is ~~entitled~~ ^{entitled} for any relief. The O.A. has no merit and accordingly dismissed.

No order as to costs.


Vice-Chairman.

Manish/-