

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

. Original Application No. 779 of 1997

Allahabad this the 18<sup>th</sup> day of August, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Kamla Shanker, Son of Late Shri Shankatha Prasad Srivastava (presently serving as Upper Division Clerk in Ordnance Depot, Fort, Allahabad) resident of 90 A/6 D, Baghambari Gaddi, Allahpur, Allahabad.

Applicant

By Advocate Shri R.R. Tripathi

Versus

1. The Union of India through the Secretary to Government of India, Ministry of Defence, DHQ Post Office, New Delhi-110011.
2. The Senior Local Audit Officer(S), Located at Central Ordnance Depot, Chheoki, Allahabad.

Respondents

By Advocate Shri S.C. Tripathi

O R D E R

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The Senior Local Audit Officer(S)-respondent no.2 disallowed the applicant, in audit, hospital leave for 177 days and deducted 60 days half pay leave commuted to 30 days on full-pay and 147 days earned leave to regularise the total absence on treatment, on the ground that the hospital leave was not sanctioned by

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the competent authority. Against this act of respondent no.2, Shri Kamla Shanker has come up before the Tribunal seeking redressal against the same.

2. As per applicant's case, while he was serving as Upper Division Clerk in Ordnance Depot, Fort, Allahabad, he met with vehicular accident on 06.2.96 and had to be hospitalised, for which he remained on bed from 06.2.1996 to 31.7.1996. For this period, he submitted requisite leave application alongwith medical report, medical fitness certificate and othe relevant papers to officer concerned. The Court of Inquiry was held to investigate the circumstances under which the applicant sustained injury on 06.2.1996 and the Court of Inquiry opined that the leave for 177 days from 06.2.1996 to 31.7.1996 spent towards convalescence may be regularised as per rules and the competent leave sanctioning authority agreed with the opinion of the Court of Inquiry and the absence of the applicant from 06.2.1996 to 31.7.1996 was regularised under rules, but during the course of audit, the respondent no.2 raised the objection that the leave has not been sanctioned by the competent authority.

3. The respondents have contested the case and filed the counter-reply, mainly on the grounds that the applicant was granted 177 days hospital leave by administrative authority, which was contrary to the rules as existed at that time.

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4. Heard, the learned counsel for the parties and perused the record.

5. It is not in dispute that during the relevant period, the applicant had to remain under medical treatment and could not attend his duty under medical advise. It is also not in dispute that the applicant applied for hospital leave and the genuineness of ground for this hospital leave, was upheld by the Court of Inquiry. It is also admitted fact that this leave was sanctioned to the applicant. The only dispute remains as to whether the leave was sanctioned by the competent authority or not. With this position in view, even if the case of the respondents is taken to be correct, the applicant cannot be blamed and made to suffer for the same, because he applied for the leave due to him in due course by furnishing the complete information and the genuineness of ground for this leave, was upheld by the Court of Inquiry, and his leave was also sanctioned by the authority in the respondents establishment. Even if the sanctioning authority was not competent to sanction leave to the applicant, he ought to have forwarded it to the competent authority, being in the official hierarchy of the same establishment.

6. For the above, I find force in the contention of the applicant and direct the respondents to re-consider the whole matter

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and orders be obtained from the competent authority regarding sanction of 177 days hospital leave to the applicant, as per his entitlement, within a period of 8 weeks from the date of communication of this order. The O.A. is disposed of accordingly. No order as to costs.

*See page*  
Member (J)

/M.M./