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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.1045 of 1986

(O.S. No.737 of 1985)

Nageshwar Prasad ..... Plaintiff

Versus

Union of India & Another ..... Defendants

Hon.S.Zaheer Hasan, V.C.  
Hon. Ajay Johri, A.M.

(By Hon.Ajay Johri, A.M.)

*31*  
Suit No. 737 of 1985 Nageshwar Prasad  
Versus Union of India & Another has been received  
on transfer from the Court of Munsif, Gorakhpur  
under Section 29 of the Administrative Tribunals  
Act XIII of 1985. Having joined the North Eastern  
Railway on 4.4.55 the plaintiff has been working  
in the Workshop at Gorakhpur since then. He has  
filed the above suit with a prayer that the  
defendants may be directed to correct the leave  
account of the plaintiff and to show the correct  
number of days of leave on average pay and leave  
of half average pay due to him and any other  
reliefs that he may be found entitled to. The  
plaintiff's case is that his leave account has  
not been correctly maintained by the defendants.  
According to him he is due more than 7 to 8 months  
of leave on half average pay and more 180 days  
of leave on average pay. However the slip was

issued regarding his leave account in 1981 which showed the leave on average pay as 47 days and leave on half average pay as 100 days which according to him was completely wrong. He has thereafter been representing to the D.P.O. Workshop Gorakhpur and he feels that due to the mistake of the office ~~on~~<sup>34</sup> incorrect entries of the leave account he is likely to suffer a great loss and hence this suit.

2. The defendants case is that the plaintiff was intimated in the year 1981 that 47 days L.A.P. and 100 days L.H.A.P. was due to his credit. On receipt of a representation from him the records were scrutinized and it was found that due to <sup>35</sup> clerical error the correct accounting of leave had not been done. The same was therefore subsequently corrected and it was found that leave actually due at that time was 82 days L.A.P. and 179 days L.H.A.P. At present the plaintiff has 131 days leave of average pay and 239 days on half average pay as on 9.1.1986. According to the defendants the leave account of the plaintiff has already been corrected and he has been advised of the leave to his credit on 8.11.1986 (Annexure-1 of the Written Statement). Therefore the defendants <sup>36</sup> contend ~~leave case~~ that the suit has become infructuous in view of the fact that the leave account has

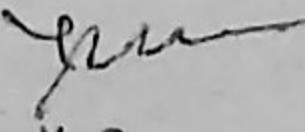
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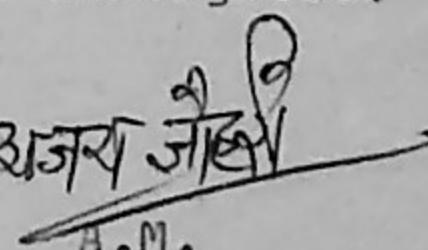
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been corrected and the plaintiff has been advised of the same.

3. We have heard the learned counsel for both parties. Shri Amit Asthalekar learned counsel for the defendants has referred to Annexure-I of the Written Statement wherein the leave due to the plaintiff as on 9.1.86 has been shown as 131 days L.A.P. and 239 days L.H.A.P. Shri Anil Kumar the learned counsel for the plaintiff accepted the information conveyed by Annexure-I. No other arguments were advanced before us.

4. In view of the fact that the plaintiff has accepted the revised calculations of the leave account as standing on 9.1.86 as shown by the defendants in Annexure-I of the Written Statement vide letter No.E/PC/1753/T/1753 dated 8.11.86, the prayer made by the plaintiff stands fulfilled and therefore the suit becomes infructuous and is dismissed as not pressed. Under the circumstances, parties will bear their own costs throughout.

  
V.C.

  
A.M.

Dated the 27<sup>th</sup> May, 1987

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