

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

ORIGINAL APPLICATION NO.405 of 1999.

Monday this the 24th day of March 2003.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

Smt. Nirmal Sharma
aged about 58 years
w/o Sri M.M. Sharma
R/o 22A Clive Road, Allahabad
at present working as Senior Clerk
P.No.6956563 in the Office of
Central Ordnance Depot Chheoki
Allahabad.

.....Applicant.

(By Advocate Sri Sudhir Agrawal/ Sri S.K. Mishra and
Sri A.B.L. Srivastava)

Versus.

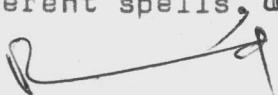
1. Union of India
through Secretary
Ministry of Defence,
New Delhi.
2. Personnel Officer (Civil)
Central Ordnance Depot Chheoki,
District Allahabad.
3. Assistant Accounts Officer,
Local Audit Office (Bha)
Central Ordnance Depot Chheoki,
Allahabad.

.....Respondents.

(By Advocate: Sri S Mandhyan)

O_R_D_E_R

By this O.A., filed under section 19 of Administrative
Tribunals Act 1985, applicant has challenged the order
dated 22.11.98 (Annexure 1) by which, applicant has been
held not entitled for the hospital/accidental leave of
481 days which was granted to her for the period of
1.6.92 to 4.8.1996 in different spells, while she was admitted



in hospital, in this connection applicant was paid an amount of Rs.80,000/- towards accidental leave. Subsequent Audit objection was raised that the applicant was not entitled for the benefit of Hospital leave. In view of the provision contained in Section 2 (i) (n), and items No (i) and (ii) of schedule 2 of Workmen Compensation Act 1923. After giving reference of the Audit objection, impugned order dated 22.11.1998 has been passed on the ground that the applicant was not entitled for hospital leave, and amount has been deducted from her salary. Aggrieved by this, applicant has approached this Tribunal.

2. Learned counsel for the applicant has submitted that the applicant was entitled for hospital leave, even though the provision of Workmen Compensation Act 1923 were not applicable to her. It is submitted that applicant was granted hospital leave and benefit arising therefrom under Article 291 of Civil Service Regulation. Learned counsel for the applicant has also placed reliance on the unreported judgement of this Tribunal dated 18.08.2000 passed in O.A. No.779/97 Shri Kamla Shanker Vs Union of India and another.

3. Learned counsel for the respondents, on the other hand, submitted that as the applicant was not workman she was not entitled for benefit and order does not suffer from any error of law. He has placed before me provisions contained under Section 2 (i) (n) and item No (i) and (ii) of schedule 2 of Workmen Compensation Act 1923.

4. I have carefully considered the submissions of



learned counsel for the parties. Central Government after considering the provisions contained in Article 291 of Civil Service Regulations, issued clarification for information and guidance in all Offices. Clarification Nos.1 and 2 in this regard are very important which are being reproduced below:

"(i) For absence from work on account of injuries received in the course of duty, Article 291 CSR provides for grant of full pay for one month and thereafter half pay for three months subject to the conditions specified in that Article in respect of men to whom the Workmen's Compensation Act 1923 applies. combination of any other kind of leave (except casual leave) with injury leave under Article 291 CSR is also is also permissible".

"(ii) The provisions of Article 291 CSR which cater for subordinate employees including temporary or extra employees' are applicable not only to those who may come within the purview of the Workmen's Compensation Act but also to all categories of staff other than gazetted officers, and in their cases also, combination of any other kind of leave as indicated in para (1) above with the injury leave provided for in that Article is permissible".

5. From the aforesaid, it is clear ~~that~~ that all categories of Staff are covered under the scheme provided under Article 291 and it is not correct to say that only those who ~~were~~ covered for the provision of Workmen's Compensation Act 1923 only ~~are~~ entitled for the benefit ^{could be} of hospital leave.

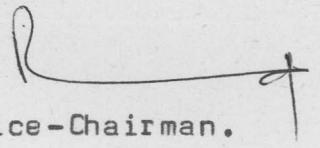
6. In these circumstances, the deduction from the applicant's salary of the amount granted was not justified. This Tribunal in the order dated 18.05.2000 held that even Upper Divisional Clerk in Ordnance Depot, Fort, Allahabad was entitled for the benefit of hospital leave. The applicant at the ~~believing~~ ^{relevant} time was working as Clerk, as such she was rightly granted benefit. For the reasons stated above,



the applicant is entitled for the relief.

7. The O.A. is accordingly allowed, the impugned order dated 22.11.1998 is quashed, the respondents are directed to re-fund the amount deducted from the salary of the applicant within a period of 4 months from the date of copy of order is filed before respondent No.2.

No order as to costs.


Vice-Chairman.

Manish/-