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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 13 OF 1996

Cuttack, this the 6th day of May, 1997

Kalpataru Rath

....

Applicant

Vrs.

Union of India and others

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes
- 2) Whether it be circulated to all the Benches of the NO Central Administrative Tribunal or not?

Somnath Som
(S. SOM)
VICE-CHAIRMAN
6.5.97

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 13 OF 1996

Cuttack, this the 6th day of May, 1997

CORAM:

HON'BLE SRI S. SOM, VICE- CHAIRMAN

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Kalpataru Rath,
Group D Official,
Keonjhargarh H.O.

....

Applicant

Vrs.

1. Union of India, represented through
Chief Post Master General,
Orissa Circle, Bhubaneswar-751 001.
2. Superintendent of Post Offices,
Keonjhar Division,
Keonjhargarh.
3. Assistant Superintendent of Post Offices,
Incharge Keonjhar North Sub-Division,
Keonjhargarh.
4. Postmaster,
Keonjhargarh H.O. Respondents.

Advocate for applicant - Mr.D.P.Dhalsamant.

Advocate for respondents - Mr.Ashok Mohanty.

O R D E R

S. SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to grant him special disability leave for the period from 10.1.1994 to 8.7.1994 instead of extraordinary leave, as has been granted by the respondents. The facts of this case are not in dispute and can be briefly stated.

2. The applicant, who is a Group 'D' employee of the Department of Posts, was carrying mail in the bus of O.R.T.C.

Keonjhar 6.5.97

in Ganjam District when the bus met with an accident on 6.4.1992 at Jodia Ghat. As a result, many passengers were injured and the applicant suffered injury in his spinal cord and had to remain on leave for treatment. In consideration of his difficulties, Post Master General sanctioned him financial assistance of Rs.1700/-. Ultimately, on the basis of order of the Tribunal in O.A.No. 327 of 1994 where he was the applicant, he was given a stationary job by the departmental authorities. The period of his absence from 6.4.1992 to 8.7.1994 was regularised in the following manner, as mentioned in paragraph 2 of the counter:

6.4.92 to 2.8.92 - 120 days (commuted leave sanctioned in 3 spells)

17.9.92 to 14.1.93 - 120 days (special disability leave)

15.1.93 to 15.3.93 - 60 days (half pay leave without medical certificate)

16.3.93 to 13.7.93 - 120 days (earned leave sanctioned in 7 spells without medical certificate)

14.7.93 to 9.1.94 - 180 days (special disability leave in 2 spells)

10.1.94 to 8.7.94 - 180 days (extraordinary leave in two spells).

*Somnath Jom
6.S.97*

From the above details, it would be seen that the applicant performed his duties from 3.8.1992 to 16.9.1992. When he applied for leave from 10.1.1994, he had 165 days of earned leave and 42 days of half pay leave, but he specifically asked for extraordinary leave and he ultimately joined on 9.7.1994. So, according to his application, this period from 10.1.1994 to 8.7.1994 was treated as extraordinary leave.

3. The respondents have rightly pointed out that extraordinary leave can be granted to a Government servant only when he applies in writing for grant of extraordinary leave although other leave is admissible to him. In this case, the applicant did apply for extraordinary leave for the period from 10.1.1994 to 8.7.1994 and the respondents committed no mistake by granting extraordinary leave to him. As such, I am afraid, in law the applicant has no case.

4. But there are other circumstances which have to be taken note of. It is a fact that long period of leave taken by the applicant was because of the accident he met with while discharging his official duties. Obviously, in consideration of that, the Post Master General has sanctioned him special financial assistance of Rs. 1700/-. He has also been given later ~~on~~ a stationary job. The applicant is a Group 'D' employee and according to the memo filed by the learned lawyer for the applicant, he has already retired on superannuation on 31.3.1997. Sanction of extraordinary leave to him, no doubt on his request, has affected him adversely because during the period of such extraordinary leave he has not got any pay.

*Journal/Memo
6.5.97*

5. As I have earlier mentioned, in view of his own application asking for extraordinary leave for the relevant period, the Tribunal is powerless in giving him any relief. But fortunately the departmental authorities are in a position to correct the situation and one of the ways in which the situation can be corrected is to grant him some other form of

leave for this period from 10.1.1994 to 8.7.1994. The applicant did not want to utilise his earned leave obviously because at the time of superannuation he would be in a position to encash the earned leave at his credit upto a limit of 240 days. But on 10.1.1994 he had, according to the counter of the respondents, 42 days of half pay leave and after his joining on 9.7.1994 till his retirement on 31.3.1997, he would have earned further half pay leave. In view of this, I feel that the respondents will be well advised to sanction him leave not due for the period from 10.1.1994 to 8.7.1994 to the extent half pay leave has been earned by him during the said period. The remaining period, if any, has to be treated as extraordinary leave. One word has to be said about leave not due. This type of leave is generally not granted possibly because the leave is termed as one which is not due. What is meant by leave not due is sanction of leave against future earning of leave by the concerned Government servant. Rule 31 of Central Civil Services (Leave) Rules, 1972 provide for sanction of leave not due except in the case of leave preparatory to retirement subject to a maximum of 360 days and subject to the condition that leave not due sanctioned shall be limited to the half pay leave the Government servant is likely to earn in future. In consideration of the facts and circumstances of the case, I feel that the respondents should consider granting him leave not due for the period from 10.1.1994 to 8.7.1994 to the extent such leave can be granted to him. Rest of the period will have to be treated as extraordinary leave.

*J. S. Nair (J.M.)
6.5.97*

6. As I have mentioned earlier, in view of the petitioners application for sanctioning him extraordinary leave, it is not possible for the Tribunal to issue a direction in terms of the above to the respondents. Therefore, the above observation of mine to sanction him leave not due must be taken as a suggestion. I have no doubt that the respondents will give due consideration to the above suggestion.

7. With the above observation, the application is disposed of. No order as to costs.

Somnath Som
(S.SOM)
VICE-CHAIRMAN 6.5.97

Nayak,PS