

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 107/2008

Date of order: 05-1-2010

CORAM:

**HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER**

S.K. Lotan S/o Late Shri Sukhan Lal, aged about 50 years, R/o H.No. 4-sa-19, Chopasani Housing Board, District Jodhpur, Rajasthan, at present former Section Officer, DMRC, Jodhpur.

...Applicant.
Mr. R.S. Shekhawat, counsel for applicant.

VERSUS



1. Union of India through the Secretary, Ministry of Health, Government of India, New Delhi.
2. Director General, Indian Council of Medical Research, Ansari Nagar, Post Box 4911, New Delhi – 110029.
3. Dr. Ramesh Chandra Sharma, as O.C. C/o Desert Medicine Research Centre, New Pali Road, Jodhpur, Rajasthan.
4. Officer Incharge C/o Desert Medicine Research Centre, New Pali Road, Jodhpur, Rajasthan.
5. Sr. Admn. Officer, I.C.M.R., Ansari Nagar, Post Box 4911, New Delhi – 110029.

... Respondents.
Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.

ORDER

(Per Hon'ble Dr. K.S. Sugathan, Administrative Member)

The applicant is working under the respondent no. 3. Vide order dated 07.12.2001 (Annex. A/3), 52 days earned leave was granted to him by the Director-In-Charge. The said leave was granted to the applicant without any formal request from him. The

applicant represented against the grant of earned leave to him without his having made any request. His representation was, however, rejected vide order dated 19.10.2007 (Annex. A/1). The applicant has challenged the impugned orders on the ground that they are illegal and arbitrary.

2. The respondents have filed a reply. It is contended on behalf of the respondents that the said leave was granted to the applicant as the applicant was absenting himself from duty / leaving the office before the closure of office time / reporting to the office late during the period from 21.03.2000 to 11.05.2000. It is also contended that the applicant is a habitual latecomer.

3. The applicant has filed a rejoinder in which he has refuted the contentions raised by the respondents.

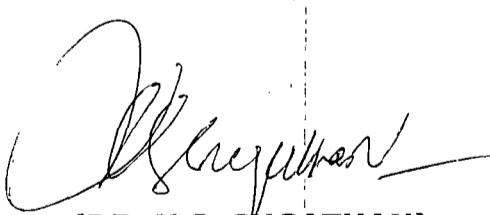
4. We have heard the learned counsel for the applicant Shri R.S. Shekhawat and learned counsel for the respondents Shri M.Godara.

5. The respondents have contended that sanction of 52 days earned leave was on account of late coming / absence by the applicant and that it has been done in accordance with the rules. However, no specific rule has been brought to our notice on the basis of which such an action can be taken against an employee. The CCS leave rules do not provide for grant of leave where there is no formal application for leave. It is evident from the perusal of the record that the purpose of granting leave is to punish him for

his late coming. We are of the view that such an action on the part of the respondents is illegal and arbitrary. If the applicant has committed a misconduct it is upto the respondents to take necessary disciplinary action in accordance with rules. Instead of doing that the respondents have committed illegality by unilaterally granting 52 days earned leave and debiting it in his leave account. During the course of the arguments, learned counsel for the respondents submitted that if this Original Application is allowed, the respondents may be given liberty to take appropriate action under the discipline and conduct rules. We do not think that it is necessary to give any specific orders in this regard except to say that it is upto the respondents to follow the relevant rules.

6. In view of the clear cut illegality committed by the respondents, we have no hesitation in concluding that this Original Application deserves to be allowed. The Original Application is, therefore, allowed. The impugned orders dated 07.12.2001 (Annex. A/3) and 19.10.2007 (Annex. A/1) are quashed and set aside. The respondents are directed to credit the earned leave back into the account of the applicant within a period of one month from the date of receipt of a copy of this order. No order as to costs.


(DR. K.B. SURESH)
 JUDICIAL MEMBER


(DR. K.S. SUGATHAN)
 ADMINISTRATIVE MEMBER

दिनांक 13/11/10
क्रमांक 5
प्राप्ति क्रमांक 1/21/16
दिनांक 17/12/15
क्रमांक 1/21/16
प्राप्ति क्रमांक 1/21/16
दिनांक 13/11/10

दिनांक 17/12/15 के आदेशालुसार
प्राप्ति क्रमांक 1/21/16
दिनांक 13/11/10 का III चक्र फिर नहू।

कौशली नामांकन करकरण
जोधपुर न्यायपीठ, जोधपुर

12/10