

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM EBNCH**

O.A. No. 505 OF 2006

Thursday, this the 9th day of August, 2007.

CORAM :

**HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN
HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER**

P. Rajagopalan
Retired Chief Commercial Inspector
Southern Railway
Palghat Division
Residing at : Sreemurugalayam
Kadavath Road, North Parur
Ernakulam District : Applicant

(By Advocate Mr.TCG Swamy)

Versus

1. Union of India represented by the Secretary
to the Government of India
Ministry of Railways (Railway Board)
New Delhi
2. The Additional Divisional Railway Manager
Southern Railway
Palghat Division, Palghat
3. The Senior Divisional Personnel; Officer
Southern Railway, Palghat Division
Palghat : Respondents

(By Advocate Mrs. Sumathi Dandapani, Senior with Ms.P.K.Nandini)

The application having been heard on 09.08.2007, the
Tribunal on the same day delivered the following :

ORDER

HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN

The applicant in this O.A retired as Chief Commercial
Inspector on ' compulsory retirement from service' by order dated
21.11.2005. He has sought the following reliefs:-

- i, Declare that fixation of a cut off date in the matter of grant of the benefit of leave encashment of unutilised leave on average pay (earned leave) to those Central Government employees who are compulsorily retired as a measure of penalty and on whose case, a cut in pension (including gratuity) has been imposed by the Disciplinary authority by Annexure A-4 is arbitrary, discriminatory, unreasonable and unconstitutional.
- ii, Call for the records leading to the issue of Annexure A-4 and quash the same to the extent it reads 'the amendment shall be deemed to have come into force with effect from 13.2.2006.
- iii, Declare that the applicant is entitled to be granted the benefit of encashment of leave average pay (LAP) at his credit with effect from 13.2.2006 and direct further that the applicant be granted the same within a time limit as may be found just and proper by this Hon'ble Tribunal.

2. The respondents in their reply statement have submitted that he was sanctioned pension and gratuity equal to two third of pension only which would have been admissible to him, as the disciplinary authority ~~hage~~ imposed one-third cut in the pension. By virtue of Railway Board's letter No. F.(E) III/2001/LF-I/1 dated 17.05.2001, viz., Decision No. 4 under Rule 550-A of the IREC, Vol..I the applicant is not eligible for encashment of leave as prayed for.

3. When the matter came up today, it is submitted before us that the applicant had filed OA 889/05 before this Tribunal challenging the compulsory retirement from service and cut in pension. The O.A has since been allowed by order dated 25.07.2007 declaring that the applicant is entitled for full pension and gratuity as if he had been invalidated as on 02.12.2005 with all consequential

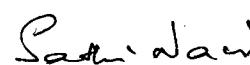
benefits. By virtue of this order the applicant has become eligible for the benefits of encashment of leave as provided for in Railway Board's letter dated 12.08.1987 produced by the respondents, para 3 of which is as under :-

" Railway Ministry's Decision 4 – Encashment of unutilised leave on average pay (LAP) will be allowed to those Railway servants who are compulsorily retired as a measure of punishment under the disciplinary rules where the disciplinary authority has not imposed any cut in the amount of pension. In such cases the authority competent to grant leave can sanction cash equivalent to leave salary for leave on average pay (LAP) if any, at the credit of Railway servants on the date of such retirement, subject to a maximum number of days permissible under the rule, in the manner specified in Railway Ministry's Decision No.1 of Rule 550-A. However encashment of unutilised leave on average pay (LAP) will not be allowed to those Railway servants who are compulsorily retired as a measure of punishment under the disciplinary rules, where the disciplinary authority has imposed a cut in the amount of pension."

4. In the light of these facts now brought to our notice, the prayer of the applicant in this O.A has become infructuous. By consent of both the parties, O.A is disposed of with a direction to the respondents to consider the request of the applicant for encashment of leave in accordance with the rules. No costs.

Dated, the 9th August, 2007.


K.B.S.RAJAN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

VS