

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.219/2002

Tuesday this the 28th day of May, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

N.Lakshmi, W/o late A.S.Balasubramanian,
House No.3/166, Lakshminarayananapuram,
Palakkad-678005.Applicant

(By Applicant in person)

v.

1. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.
2. Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, Kerala Circle, Thiruvananthapuram.
3. General Manager, Telecom, Bharat Sanchar Nigam Limited, Palakkad.
4. Sub Division Engineer (MDE&TD)
Bharat Sanchar Nigam Limited,
Palakkad.Respondents

(By Advocate Ms. P.Vani, ACGSC)

The application having been heard on 28.5.2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

This is an unfortunate case of a widow being driven to court on account of bureaucratic sadism.

The husband of the applicant was hospitalised with a severe ailment on 2.6.99 and unfortunately breathed his last in the hospital on 20.8.99 while undergoing treatment and remaining on leave. As the applicant was confined to house in shock and involved in post death rituals for about a fortnight, coming to know that the entire absence of the

applicant's husband of 80 days was regularised adjusting 55 days of Earned Leave and 25 days of half pay leave while 150 days of half pay leave had been there to his credit, the applicant on 6.9.99 applied for regularisation of the period of 80 days by grant of available half pay leave and utilising the Earned Leave only to the extent of necessity. The request of the applicant was turned down by the impugned order on the ground that the request has been submitted very late. Aggrieved the applicant has filed this application seeking to set aside the impugned order Annexure.A3 and for a direction to the third respondent to regularise the 80 days of absence of deceased Balasubramanian immediately prior to his demise by granting 75 days of commuted leave and 5 days of earned leave, and further direct the respondents to disburse cash equivalent to leave salary for 50 days of earned leave besides full leave salary for the last 25 days of the deceased's service for which he had been paid only salary admissible for half pay leave. She has also prayed for a direction to the third respondent to grant interest at the rate of 18 percent per annum for the undue delay in payment of legitimate dues to the applicant.

3. The respondents in their reply statement while stating that the department was too willing to help the applicant have in fact taken a hyper-technical contention that the request having been received late it could not be entertained. On the facts the respondents' contention is that the applicant's husband had only 148 days of half pay leave in his credit as against the claim of 150 days. The

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respondents further contend that in view of the provisions contained in Rule 10 of the FR-SR and the proviso thereunder, the application for conversion of leave received after 30 days is not to be entertained. The respondents therefore, contend that the applicant is not entitled to any relief.

4. We have given anxious consideration to the facts and circumstances emerging from the pleadings in this case. We have also heard the applicant who is present in person and Smt.P.Vani, Additional Central Government Standing Counsel appearing for the respondents. It is an undisputed fact that the applicant's husband was on leave being hospitalised from 2.6.99 till the date of his death ie., on 20.8.99. It is again a fact admitted by the respondents that the applicant's husband had 148 days of half pay leave to his credit which could be commuted fully as medical leave. That a medical certificate has been produced is also not disputed. While regularising the period of absence of 80 days from 2.6.99 to 20.8.99 the third respondent should have utilised the entire 148 days of half pay leave to the credit of the applicant's husband and adjusted only remaining six days of Earned Leave, especially when the matter relates to entitlements due to legal heirs of a deceased Government servant. The contention in the reply statement that the medical certificate was actually received in May,2000 does not appeal to reason, because the specific allegation in the application in para 4-6 that the applicant submitted a representation on 6.9.99 along with medical certificate has

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not been denied. The contention of the respondent that the authenticity of the medical certificate was doubtful carries no force at all for even according to the respondents, the applicant's husband was hospitalised and died while in hospital. Further in the impugned order, the respondents have not expressed any doubt regarding the genuineness of the medical certificate.

4. In the light of what is stated above, the application is partly allowed. The impugned order is set aside. Respondents are directed to regularise the 80 days of absence of the applicant's husband under sick leave by utilising 148 days of half pay leave which remained to his credit on the date of his death and adjusting only 6 days of the Earned Leave. After issuing orders accordingly, the respondents are directed to make available to the applicant the monetary benefits flowing from the above adjustment. The above direction shall be complied with and the resultant monetary benefits made available to the applicant within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 28th day of May, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER
(s)


A.V. HARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of representation dated 6.9.99 with enclosure submitted by the applicant to R-3.
2. A-2: True copy of representation dated 14.9.2000 submitted by the applicant to respondent No.3.
3. A-3: True copy of letter dated 14.12.2000 issued by the respondent No.3 to the applicant.
4. A-4: True copy of representation dated 14.2.2001 submitted by the applicant to R-2.
5. A-5: True copy of letter dated 9.4.2001 issued by R-2 to the applicant.

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