

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 336 OF 2009

Friday, this the 30th day of October, 2009.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

T.V.Muralidharan
Station Manager (Retd)
Southern Railway, Palakkad
Residing at 'Nivedhyam',
Hill view Nagar
Dhoni PO, Olavakkode
Palakkad - 678 009

... Applicant

(By Advocate Mr.T.C.Suresh Menon)

versus

The Senior Divisional Personnel Officer
Southern Railway, Divisional Office
Personnel Branch
Palakkad

... Respondent

(By Advocate Mr.Thomas Mathew Nellimoottil)

The application having been heard on 29.10.2009, the Tribunal on 30.10.2009 delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The question involved in this OA is whether the period of absence (462 days in all) by the applicant which had not been counted as qualifying service by the respondent, should be so counted.

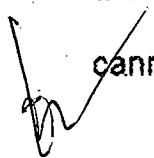
2. Briefly the facts of the case are that the applicant joined the services in the Indian Railways on 12.11.1970 and superannuated on 31.01.2007. From 10.01.1997 to 05.02.1999 the applicant did not attend the office. According to the applicant, he had produced medical certificate from private Doctor and vide Annexure A - 1, the period of absence was

treated as Extra Ordinary Leave. According to the applicant, despite the above regularization of leave, when he retired no pension benefits or increments were allowed in his favour for the period of his absence of 462 days. Hence, he filed Annexure A-2 representation. This was however, after consideration, rejected on the ground that the leave sanctioned was only extra ordinary leave and as per the Leave Rule No.521 (2) medical certificate is to be produced within 48 hours and the employee had not adhered the rule. Hence the absent period was treated as extra ordinary leave only. Annexure A-3 refers. It is the above order that is under challenge in this OA.

3. Respondent has contested the OA. According to them since the applicant has not strictly adhered to the rules he is not entitled to get the leave converted to leave on medical grounds and get any benefit out of it.

4. Applicant has filed a miscellaneous application wherein he added a copy of judgment in O.P.24304/98 (UOI & Ors vs R.K.Unnikrishnan) wherein period of 12 days was directed to be treated as leave on medical grounds.


5. In the additional reply statement, respondent has substantiated that in so far as the case of Unnikrishnan was concerned, his application for leave with medical certificate was submitted on time and the leave period was only 12 days as observed by the Hon'ble High Court. As such his case cannot be compared with the case of the applicant.



6. Counsel for applicant submitted that all the leave period had been supported with medical certificate though they are from private Doctor. It is not that under no circumstances private Doctor certificates can be accepted. If at all such medical certificate from private Doctors has to be rejected, it has to be only after having a Medical Board constituted and medical check up exercised and if the medical check up result was different from the opinion of the private Doctor. Such is not the case in this case. As such, once the leave has been granted, the same being with the support of medical certificates, the applicant is entitled to have the period regularized as leave on medical grounds.

7. Counsel for respondent however, submitted that though medical certificates could be from the private Doctors, unless the stipulation as in Para 521 (2) of the medical rules is adhered to, there is no question of leave being granted on medial grounds. He has again distinguished the case of Unnikrishnan relied upon by the applicant in as much as the said case all the formalities have been completed in accordance with law and the Hon'ble High Court has specifically mentioned that the period involved is only 12 days

8. Arguments were heard and documents perused. The Railways have full medical facilities and the general expectation is to seek medical treatment only from the Railway hospital and resort to private doctors could be only in exceptional circumstances and that too as a stop gap arrangement. In the instant case, the period involved was 462 days and the applicant has chosen not to seek medical facilities from the Railway doctors. While issuing Annexure A-1 order, the respondent was fully



conscious of the details and when they have granted only extra ordinary leave, it only meant that leave on medical grounds was rejected. The applicant has not chosen to challenge the said sanction to get it modified as leave on medical grounds. The leave granted to the applicant is only to avoid break in service. The applicant cannot take any advantage of Annexure A-1 beyond the same. As such, the claim of the applicant to treat the entire period of 462 days on medical grounds cannot be accepted. As such, the OA being devoid of any merit, there is no option left but to reject the same. **OA is dismissed** accordingly. No costs.

Dated, the 30th October, 2009.



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

vs