

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 765/2001

DATE OF DECISION: 4<sup>th</sup> September 2002

Smt. Arati S. Vaidya Applicant.

Shri s.s. Karkera Advocate for  
Applicant.

Verses

Union of India and others Respondents.

Shri R.R. Shetty Advocate for

CORAM

Hon'ble Shri S.L. Jain, Member (J)

(1) To be referred to the Reporter or not? *yes*

(2) Whether it needs to be circulated to *also*  
other Benches of the Tribunal?

(3) Library. *yes*

*P.L. Jain*  
(S.L. Jain )  
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 765.2001

the 4<sup>th</sup> day of SEPTEMBER 2002

CORAM: Hon'ble Shri S.L. Jain, Member (J)

Smt. Arati S. Vaidya  
W/o late S.S. Vaidyaa  
Residing at 241 Shukrawar Peth  
Pune.

...Applicant.

By Advocate Shri S.S. Karkera.

V/s.

1. Union of India through  
Secretary,  
Ministry of Defence  
South Block, New Delhi.
2. The Director General  
Research and Development  
Directorate of Personnel  
(RD Pers - 10)  
Ministry of Defence  
DGQ PO, New Delhi.
3. The Director  
High Energy Materials  
Research Lab.  
Armament Post Sutarwadi,  
Pune.

...Respondents.

By Advocate Shri R.R. Shetty.

ORDER

{Per S.L. Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985, to quash and set aside the impugned order dated 17.8.2001 with the direction to the respondents to grant Special Disability Leave as per the Rule 44 of CCS (Leave) Rules 1972 after treating the entire Earned Leave taken by the husband of the applicant during the Hosptial

*PL Jain*

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admission period and O.P.D treatment period as duty, to pay the encashment of leave after treating the Earned Leave into Special Disability Leave as admissible under Rules to the applicant.

2. The applicant's husband late Shreenivas Siddhanath Vaidya who was working as T.A.O. Grade 'A' ranker under respondent No.3, expired on 23.11.1999. The applicant states that the laboratory of the Respondent No.3 was carrying out the research and development work, the applicant being a Class 'B' Officer in the Department was performing the duties of the stores in the laboratory. The Applicant states that the store section stores several chemicals and being the in-charge he had to look after the said work. The applicant claims that her husband was admitted and discharged from the hospital as outdoor as well as indoor patient. The details have been shown in para 4.6 of the OA. Her husband was having CGHS card No. 6623 5788 issued by respondent No.3.

3. On perusal of the pleadings and relief claimed, the applicant's husband has taken Earned Leave and now the applicant intends to commutation of the same.

4. The applicant has filed this OA on 15.10.2001 impugning the order dated 17.8.2001 which is with reference to his representation dated 30.7.2001.

5. This being the admitted position that applicant's husband expired on 23.11.1999 and thereafter on 15.10.2001, the applicant

*P.L. Sharma* ✓

had filed this OA challenging the decision of the respondents with reference to her application dated 30.7.2001. The applicant claims commutation after death of S.S. Vaidya, nearly after more than one year of the death of his husband.

6. Rule 10 of Central Civil Services (Leave Rules ) 1972 which is worth mentioning, which is extracted below:

Commutaion of one kind of leave into another

1. At the request of a Government Servant, the authority which granted him leave may commute it retrospectivley into leave of a different kind which was due and admissible to him a the time the leave was granted, but the Government servant cannot claim such commutation as a matter of right.

{Provided that no such request shall be considered unless recieved by such authority, or any other authority designated in this behalf, within a period of 30 days of the concerned Government servant joining his duty on the expiry of the relevant spell of leave availed of by him.

7. Perusal of the same makes it clear that commutation cannot be claimed as a matter of right and no such request shall be considered unless received within a period of 30 days of the concerned Government servant joining his duty on the expiry of a spell of leave availed by him. The applicant's husband had not applied for commutation commencing with September 1996 till his death. The applicant also failed to apply for more than 1 1/2 year for commutation.

8. I am not convinced that any case is made out to believe the fact that the applicant's husband could not apply for commutation or did not apply for Earned Leave.

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9. In my considered opinion <sup>m</sup>that commutation cannot be claimed as a matter of right and he had not applied for within 30 days of joining the leave availed by him. As such the matter cannot be agitated at this belated stage.

10. In the result the OA is dismissed with no order as to costs.

*S.L. Jain*  
(S.L.Jain)  
(Member(J))

NS