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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

O.A. NO. 584 of 1989.

I.A. NO.

DATE OF DECISION 2.3.90.

C.Ardhanari Petitioner

Shri M.C.Pillai Advocate for the
Petitioner (s)

Versus

The General Manager, Respondent (s)
South Central Railway,
Secunderabad & 3 others.

Shri N.R.Devaraj Advocate for t
SC for Railways Respondent (s)

CGRAM

The Hon' ble Mr. J.NARASIMHA MURTHY : MEMBER (JUDL)

The Hon' ble Mr. R.BALASUBRAMANIAN : MEMBER (ADMN)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. whether their Lordship wish to see the fair copy of the Judgment?
4. whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice-Chairman on columns 1,2,4, (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

HJNM

M(J)

HRBS

M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

O.A.No.584 of 1989.

Date of Judgment 2.3.1990.

C.Ardhanari ... Applicant

Versus

The General Manager,
South Central Railway,
Secunderabad
& 3 others ... Respondents

COUNSEL FOR THE APPLICANT : Shri M.C.PILLAI

COUNSEL FOR THE RESPONDENTS : Shri N.R.DEVARAJ
SC for Railways

CORAM:

HONOURABLE SHRI J.NARASIMHA MURTHY : MEMBER (JUDL)

HONOURABLE SHRI R.BALASUBRAMANIAN : MEMBER (ADMN)

{ Judgment as per Hon'ble Shri R.Balasubramanian,
Member (Admn) }

This is an O.A. filed under section 19 of the
Administrative Tribunals Act by Shri C.Ardhanari
against the General Manager, South Central Railway,
Secunderabad and 3 others.

2. The petitioner was initially appointed as
Asst. Inspector of Works on 4.4.1957 in the Mysore
Division of Southern Railway. He was transferred to
Tiruchirapally Division of Southern Railway during 1962.
From that post he was promoted as Inspector of Works
and transferred to XEN/Construction/Southern Railway,
Ghorpuri, Pune and joined as Inspector of Works
on 4.3.1964. The new South Central Railway zone

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was formed in 1966 and he was retained in the new zone. He was later transferred during 1977 to Chief Engineer/Construction/Secunderabad and promoted subsequently as Inspector of Works Gr.II & I. He continued in the South Central Railway till 31.3.1989 when he retired on superannuation. It is his case that he is entitled to encashment of 173 days leave to his credit till the date of his retirement whereas the respondents ^{paid} ~~passed~~ the leave encashment equivalent only to 56 days. By his prayer he has claimed leave encashment for the balance 117 days.

3. The respondents have opposed this claim. According to them the leave particulars of the applicant for the period from 4.4.57 to 3.3.64 were not available with the Southern Railway. The South Central Railway had corresponded with the divisional authorities concerned of the Southern Railway and they could not get a satisfactory reply. The FA & CAO (the 4th respondent) had verified the leave account and certified that the applicant had only 56 days of leave on average pay on the date of his retirement. Hence the payment for only 56 days.

4. We had examined the case and heard the learned counsels for both the applicant and the respondent. In the course of the hearing the learned counsel for the applicant stated that the leave account recast on the strength of a letter from the Divisional

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/ Railway Manager, Tiruchirapally had been sent by the CPO South Central Railway to the FA & CAO but that the latter had not accepted the same and reduced it to only 56 days. The learned counsel for the respondent contended that in the absence of leave account from the previous Railway the FA & CAO had scrutinised the leave account in accordance with the rules and certified that the applicant had only 56 days leave on average pay at the time of his retirement.

5. The applicant, aggrieved by the action of the respondent had in his letter dated 28.4.89 addressed to the General Manager, South Central Railway, Secunderabad pointed out that he is entitled to encashment for 173 days leave. In the same letter he had also requested them to commute sick leave to leave on half average pay (LHAP) and give corresponding credit in his LHAP account. Vide his letter dated 18.5.89 the CPO South Central Railway replied the applicant that according to Rule 505 of Indian Railway Establishment Code Volume I, request for conversion of one kind of leave into another must be made while the official is in service. In this case since the request was made after he ceased to be in service such a request could not be adhered to. The letter, however, is silent on the other aspect namely the applicant's eligibility for

173 days leave. We find from a letter dated 11.4.79 (material paper 17 to the application) that the Divisional Railway Manager, Tiruchchirappalli of Southern Railway had indicated that during the period 4.4.57 to 19.2.64, the applicant had availed of only six days of leave on average pay between 30.9.63 and 5.10.63. The applicant avers that based on this letter his leave account had been recast by the CPO South Central Railway and sent to the FA & CAO. He has also averred that the recasting has the approval of a three member review committee which included an Accounts Officer. According to Rule 513 it is the responsibility of the respondent department to maintain the leave account properly. Their failure should not adversely affect the interests of the applicant. We find from a letter No.E(G) 70/E1-4 dated 2.1.71 of the Railway Board (material paper 16 to the application) that in cases where there is prima facie evidence that the leave account of an employee has not been kept upto-date and does not bear an endorsement of verification, the Accounts Office instead of scrutinising the unverified period should restrict the scrutiny of leave record only to the last three years of service. In the instant case the respondents contend that his leave account for the period 4.4.57 to 3.3.64 is not available and hence the leave account could not be certified. We have seen the Railway records furnished to us. We are unable to find out how the FA & CAO

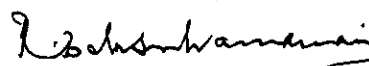
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had arrived at the figure of 56 days LAP. On the other hand, the applicant has produced at pages 12 to 15 of material papers to the application, a copy of recast leave account according to which he had 173 days to his credit on 31.3.89. Under these circumstances, the Railways have to proceed on the premises, without insisting on accounts certification, that the applicant had 173 days' leave to his credit on 31.3.89. The applicant is entitled to encash 173 days' leave at the time of retirement.

6. In the result the application succeeds. The respondent shall pay the balance amount due within one month of this order. There is no order as to costs.



(J. NARASIMHA MURTHY)
Member (Judl)



(R. BALASUBRAMANIAN)
Member (Admn)



DEPUTY REGISTRAR (J). 21/3/90.

Dated

2-3-90

To

1. The General Manager, South Central Railway, Railnilayam, Secunderabad-500371.
2. The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad-500371.
3. The Chief Engineer (Open Line), S.C. Railway, Railnilayam, Sec 'bad.
4. The Financial Adviser and Chief Accounts Officer, S.C. Railway, Railnilayam, Secunderabad-500371.
5. One copy to Mr. M. C. Pillai, Advocate, Flat No 304, (3rd Floor), Kakatiya Apartment, Habshiguda, Hyderabad-500007.
6. One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyd.
7. One copy to Hon'ble Shri R. Balasubramanian, Member (Admn.), CAT, Hyd.
8. One spare copy.

5th April 2000

Sm
7/3/90

Draft by: Checked by: Approved by
D.R.(J)

Typed by: E 7/3 Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR.E.N.JAYASIMHA (V.C.)

A N D

HON'BLE MR.D.SURYA RAO: MEMBER (JUDGE)

A N D

HON'BLE MR.J.NARASIMHA MURTHY: (M) (J)

A N D

HON'BLE MR.R.BALASUBRAMANIAN: (M) (A)

DATED: 2/3/90

ORDER/JUDGMENT:-

M.A./R.A./C.A./No. _____

T.A.No. _____

D.A.No. 584/89

Admitted and interim directions
issued.

Allowed.

Dismissed.

Dismissed of with direction.

M.A. Ordered.

No order as to costs.

Sent to Xerox on: 7/3/90

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