

37

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.359/97

dt.6-4-98

Between

T. Pulleswara Rao : Applicant

and

1. Sr. Divnl. Personnel Officer
SC Rly., Vijayawada

2. Divnl. Rly. Manager
SC Rly., Vijayawada : Respondents

Counsel for the applicant : G.V. Subba Rao
Advocate

Counsel for the respondents : J.R. Gopal Rao
SC for Railways

Coram

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

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OA.359/97

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Order

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn.)

None for the applicant. Ms. Shakti for Mr. J.R. Gopal Rao for the respondents.

1. The applicant in this OA joined as C&W Khalasi on 21-12-1956 and he retired from service as Carriage and Wagon Superintendent on 31-1-1994 on superannuation after 38 years of service. The applicant was not given any leave encashment salary when he retired. The applicant was making representations for claiming leave encashment at the time of retirement. Senior DPO vide letter dated 16-9-1994 informed him that he is not entitled to leave encashment salary. Subsequently, he sent a detailed representation on 26-11-1994 for claiming 368 days as Hospital Leave which were wrongly debited to his leave account. The applicant submits that without considering the full facts mentioned in his representation the Senior DPO issued another letter rejecting his claim on 22-5-1995. He submits that this letter is contrary to his earlier letter dated 16-11-1994.

2. The applicant submits that the following periods should be treated as Hospital Leave instead of debiting to his account:

- 17-5-1974 to 10-10-1974,
- 14-6-1982 to 31-8-1982, and
- 15-9-1992 to 20-10-1992.

The applicant has elaborately given reasons for considering the above leave as Hospital Leave in the OA.

3. This OA is filed to treat the three leave periods mentioned above as Hospital leave. He also submits that the

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periods from 7-7-77 to 16-10-77 totalling 99 days is also to be treated as Hospital Leave. Consequently, he prays for a direction to the respondents to pay him leave encashment salary for the maximum period to which he is entitled to as per the rules at the time of his retirement i.e. 31-1-1994 together with interest at 18% for the delayed payment.

4. The learned counsel for the respondents submits that the period from 17-5-1974 to 10-10-1974 (148 days) and from 14-6-82 to 31-8-82 (79 days) i.e. totalling 227 days are Hospital Leave and hence that will not be treated as leave debitable to his leave account. The only dispute is in regard to the counting of leave from 15-9-82 to 26-10-82 (42 days) and for the period from 7-7-77 to 16-10-77 (99 days). It is stated in the reply that the period from 15-9-82 to 26-10-82 and 7-7-77 to 16-10-77 is on account of general sickness and is not connected with accident for which he was granted Hospital Leave as stated earlier. Sickness period from 15-9-82 to 26-10-82 and from 7-7-77 to 16-10-77 need not be connected to the earlier period when he met with an accident. An employee can fall sick at any time and it is to be seen whether the employee has to be given sick leave or not for that period. If sick leave is to be granted then it can be debited against leave on half average pay and can be commuted as per rule. If the leave cannot be ^{changed} debited to LMAP then only that leave can be debited to the LAP account. This point has not been made clear in the reply. Hence, the following direction is given:

The period from 17-5-74 to 10-10-74 and from 14-6-82 to 31-8-82 should be treated as Hospital leave and it should not be debited to his LAP account.

Medical certificate submitted by the applicant for the period from 15-9-1992 to 20-10-1992 and 7-7-77 to 16-10-77 should be reexamined. If he has produced valid sick certificates during that period and ~~same~~ is accepted by the respondent authorities then that leave should be debited to his LHAP account. If leave cannot be debited to LHAP as that leave is not available then only it should be debited against LAP account. Before deciding this issue a personal hearing should be given to the applicant to explain his case in detail before Respondent-1. For this he should be given a suitable appointment to meet Respondent-1. Only after the meeting is over a final decision should be taken and conveyed to the applicant. Commutation of LHAP should also be considered as per rule if the applicant puts up an application for commutation.

After deciding the availability of his leave in his LAP as directed above, the leave available at the credit of the employee in his LAP account which is encashable at the time of his retirement should be decided and the amount if any to be paid is paid on that basis.

Time for compliance is three months from the date of receipt of copy of this judgement.

5. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member (Admn.)

Dated : April 6, 98
Dictated in Open Court

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41

Copy to:

1. Senior Divisional Personnel Officer,
South Central Railway, Vijayawada.
2. Divisional Railway Manager, South Central Railway,
Vijayawada.
3. One copy to Mr.G.V.Subba Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr.J.R.Gopal Rao, Addl.CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

YLKR

20/4/98
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II COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 6/4/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

D.A.NO. 359/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद आयोग
HYDERABAD BENCH

29 APR 1998
Despatched by
R.D./RECD/1998
विभाग/OPPAL SECTION