

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 18th day of December, 2006

RA No.15/2006 (OA No.405/2006)

Krishna Avtar Gupta,
aged around 54 years,
s/o late Nannoo Mal,
resident of B-31,
Triveni Nagar,
Jaipur.

(By Self)

.. Applicant

Versus

1. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.
2. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
G.C.F. Estate,
Jabalpur,
M.P.

.. Respondents

O R D E R (BY CIRCULATION)

The applicant has filed this Review Application
thereby praying for reviewing the order dated
21.11.2006 passed in OA No. 405/2006 with further
prayer that direction may be given to implement the

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earlier order dated 13.4.2006 passed in OA No.415/2004.

3. For the purpose of deciding this Review Application it will be necessary to make reference to certain facts. The applicant has filed OA No.415/2004 before this Tribunal praying that he is entitled to leave encashment for 300 days whereas the respondents have paid the leave encashment for 197 days amounting to Rs. 1,26,165/-. The said OA was disposed of vide order dated 13.4.2006 by directing the applicant to make fresh representation to respondent No.2 and respondent No.2 was directed to disposed of the same within six weeks by speaking order quoting the provisions of rule/instructions on the basis of which the applicant is not entitled to the claim of remaining amount of leave encashment. It was further observed that in case the respondents comes to the conclusion that the applicant is entitled to further leave encashment amount, the respondents will make payment of the remaining amount to the applicant within a further period of six weeks from the date of decision on such representation and in case the applicant is still aggrieved, it will be open for the applicant to approach this Tribunal for redressal of his grievance. Pursuant to the aforesaid order, the respondents passed fresh order thereby holding that the applicant is entitled to leave encashment amount

for 56 days instead of 103 days. It was further observed that the applicant has been paid salary for 59 days in excess and recovery has to be made. Thus, according to the respondents nothing is payable to the applicant. The said order was challenged by the applicant before this Tribunal by filing OA No.405/2006. The said OA was disposed of at admission stage. At this stage, it will be useful to quote para 8 of the judgment which thus reads as under:-


“8. For the foregoing reasons, we are of the view that the applicant has not made out any case for our interference. Accordingly, the OA is dismissed at admission stage. It is, however, clarified that the issue whether the applicant was made excess payment of salary of 59 days which is to be recovered from him is not subject matter in this OA and this OA was confined only as to whether the applicant was entitled to further leave encashment of 103 days, as such, no finding is required on this point. It will be open for the applicant to agitate this matter in separate OA, if so desires.”

4. Now the applicant has filed this Review Application thereby stating that direction may be given to the respondents to make payment of leave encashment for ⁵⁶_w days as directed by this Tribunal in earlier OA No.415/2004.

5. We have given due consideration to the submissions made by the applicant. We are of the view that the present Review Application is wholly misconceived and not maintainable in view of the findings recorded by this Tribunal in para 8 of the judgment, relevant portion of which has been reproduced hereinabove. In case the judgment is wrong, the remedy available to him is to challenge the same

by filing Writ Petition before the Hon'ble High Court. Certainly, Review Application is not the remedy. Further, as can be seen from para 8, this Tribunal has granted liberty to the applicant to file a separate OA in case he is aggrieved that the respondents have made excess payment of salary for 59 days. In the garb of Review Application, the applicant wants this Tribunal to issue order regarding payment of salary on account of leave encashment for 56 days but he does not want to make payment of excess salary drawn by him for 59 days as determined by the respondents. It was in these circumstances, this Tribunal has not issued directions to the respondents to make payment of 56 days leave salary and the issue was kept open to be agitated and determined in accordance with law.

6. For the foregoing reasons, the Review Application is dismissed by circulation.


(J.P. SHUKLA)

Administrative Member


(M.L. CHAUHAN)

Judicial Member

R/