

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 02.03.2001

OA No.180/1999

E.N.Consul s/o Shri C.N.Gupta r/o 69/123, V.T.Road, Mansarovar,
Jaipur

.. Applicant

Versus

1. The Director General through Assistant Director (Personnel), Sports Authority of India, Jawahar Lal Nehru Stadium, New Delhi.
2. The Rajasthan State Sports Council through its President/Secretary, Govt. of Rajasthan, SMS Stadium, Jaipur.

.. Respondents

Applicant present in person

Mr. Manoj Sharma, counsel for respondent No.1

None present for respondent No.2

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Newani, Administrative Member

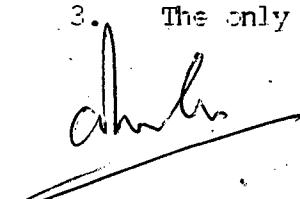
Order

Per Hon'ble Mr.N.P.Newani, Administrative Member

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays that respondent No.1 may be directed to make payment of Leave Encashment to the applicant. It is further prayed that interest at the rate of 24% may be levied on such delayed payment w.e.f. 31.8.95.

2. We have heard the applicant in person and the learned counsel for the respondent No.1. None has appeared on behalf of respondent No.2, the Rajasthan State Sports Council (for short, the Council), inspite of notice having been issued by Registered AD on 27.5.1999.

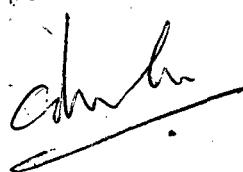
3. The only controversy in this OA is whether payment against



Leave Encashment to the applicant is to be made by respondent No.1, the Sports Authority of India or by respondent No.2, the Rajasthan State Sports Council. It is the case of the applicant that such payment is required to be made by respondent No.1, as at the material time of retirement he was serving with respondent No.1. It appears from the averments made by the applicant in paras 4.7 of his OA that he is seeking support from the guidelines circulated by the Ministry of Finance (copy enclosed at Ann.A5).

4. By filing a reply, the respondent No.1 have denied the case of the applicant. It is contended on behalf of the respondent No.1 that the applicant has concealed the existence of the letter dated 14.6.99 issued by respondent No.2 (Ann.E1) conveying sanction for payment of Leave Encashment to the applicant and, therefore, it is clear that such payment has to be made by respondent No.2 and not by respondent No.1. It is also stated that in the LFC of the applicant sent by respondent No.2, no ~~Leave Encashment~~ was shown at the credit of the applicant (Ann.E2). It has also been contended that in terms of Govt. of India, Department of Personnel and Training OM dated 31st January, 19866 (Ann.E3), the applicant is required to claim the Leave Encashment from the parent body. The learned counsel for the respondents, therefore, submits that there is no merit in this OA and accordingly, it should be dismissed.

5. We have considered the rival contentions. We find lot of force in the contention advanced on behalf of respondent No.1, the Sports Authority of India. The existence of the order dated 14.6.99 of respondent No.2 as also the LFC dated 30.1.88 (Ann.E2) indicate that whatever Leave was at the balance of the applicant in his parent organisation, the Rajasthan State Sports Council, the encashment of such leave is to be made by the Council. We have also perused the Govt. of India, Department of Personnel and Training OM



No.28016/5/85-Estt.(C) dated 31st January, 1986. In para 5 of the said OM, it has been provided that a government servant taking up an appointment in a Central Public Enterprises will be entitled to encashment of Earned Leave to his credit at the time of acceptance of his resignation from Government service. During the hearing, the applicant conceded that before joining respondent No.1, he had submitted the technical resignation to the Council. The statutory position is, therefore, quite clear and we hold that the applicant is not entitled to claim Leave Encashment from respondent No.1. He is actually entitled for claiming Leave Encashment from respondent No.2, the Council. The OA, therefore, cannot be allowed. However, the applicant should claim the Leave Encashment from the Council and we hope that the Council will make such payment as per their rules without any further delay.

6. The application is accordingly dismissed. However, we would like to suggest that the applicant should make a representation about payment of Leave Encashment to the Secretary, Rajasthan Sports Council, SMS Stadium, Jaipur within 15 days of receipt of a copy of this order and we hope and expect that the Secretary of the Council will arrange to make payment of Leave Encashment to the applicant as soon as possible in terms of the rules.

In the circumstances, there will be no order as to costs.


(H.P. HAWANT)

Adm. Member


(S.K. AGARWAL)

Judl. Member