

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH
JABALPUR

O.A. No. 944 of 2005

Jabalpur, this the 10th day of March, 2006

Hon'ble Shri Justice G. Sivarajan, Vice Chairman

V.K. Mishra, S/o. late R.D. Mishra,
Aged about 55 years, R/o. COD Colony,
Suhagi, Jabalpur.

..... Applicant

(By Advocate – Shri A.K. Pare)

VERSUS

1. Union of State Through :
The Secretary, Ministry of Defence,
New Delhi.

2. Director General, Ordnance Factories,
Ordnance Factory Board, 10, Shaheed Khudi
Ram Bose, Kolkata.

3. Senior General Manager,
Vehicle Factory, Jabalpur (MP).

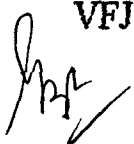
..... Respondents

(By Advocate – Shri P. Shankaran)

ORDER (Oral)

The respondents have filed their reply on 8.3.2006. Having gone through the matter, I am of the view that this OA can be disposed of without any further delay. Accordingly, heard Mr. A.K. Pare, learned counsel for the applicant and Mr. P. Shankaran, learned Additional Central Government Standing Counsel appearing for the respondents and also perused the pleadings in this case.

2. The applicant was working as a Teacher in Vehicle Factory, Primary School, Jabalpur before his transfer to Ordnance Equipment Factory, Kanpur in March, 2004. According to the applicant the Teachers of Vehicle Factory, Jabalpur School were entitled to leave as per Central Government rules apart from the rule "the teachers of the VFJ Primary School are also entitled of the vacation (Summer, Winter,



Ortem) and holidays declared by the State Government". The State Government, has curtailed the vacation from 95 days to 65 days and for these curtailed vacation the State Government has given 10 days earned leave to their Teachers since 1998 by order No. F-44-32/B-2/97, dated 27.2.1998 (Annexure A-1). This curtailment is still in practice which is evidenced by Annexure A-2. The grievance of the applicant is that though the respondents had followed this curtailment of vacation by 30 days since 1998, the Teachers of the Vehicle Factory, Jabalpur school are not been given 10 days earned leave as granted by the State Government. The applicant in the above circumstances submitted a representation dated 8.1.2005 (Annexure A-3) requesting for earned leave against the work done by him from 1.5.1998 to 10.5.1998, alongwith 10 days earned leave against the curtailed vacation. The applicant had produced the Government order (Annexure A-5) and also submitted the rule position (Annexure A-7 and Annexure A-8). It is averred that the school run by the respondents observed holidays and vacations as per the M.P. State Government and as per which the applicant is entitled for the holidays and vacations as per the MP State Government. In these circumstances, the applicant has sought for direction to respondents to consider the applicant's representation dated 8.1.2005 for 10 days earned leave for the curtailed vacation of each year since 1998 and further to direct the respondents to give 5 days earned leave for the work done by him from 1.5.1999 to 9.5.1999.

3. The respondents have filed their written statement. It is stated therein that the teachers attached to the schools of the Ordnance Factory are covered by the CCS (Leave) Rules, 1972 which provides for 10 days earned leaves and 8 days casual leave. Apart from this they are entitled to avail the vacation holidays as prescribed by the State Government concerned for schools under them in the same station, district as the case may be and also closed holidays. They are entitled to get further earned leave with they are prevented from availing of any vacation or part of vacation holidays. It is admitted that the State Government by letter dated 27.2.1998 curtailed vacation holidays from 95 days to 65 days and allowed sanction of earned leave for 10 days for reduced vacation of 30



days. It is also stated that the teachers of the Ordnance Factory schools are already getting 10 days earned leave, 8 days casual leave and also vacation holidays as prescribed by the State Government. The factory schools are following the vacation as prescribed by the State Government for their school teachers. The grant of 10 days earned leave in lieu of curtailed portion of vacation by the State Government to its teachers is not applicable to the teachers of the factory schools as for leave, they are already governed by CCS (Leave) Rules and entitled to 10 days earned leave apart from vacation holidays.

4. Mr. Shankaran learned Additional Central Government Standing counsel submits that for grant of leave with prospective effect it is for the rule making authority and/or by the Government by issuing administrative instructions.

5. In the instant case, counsel submits that the CCS (Leave) Rules, 1972 only provides for 10 days earned leave and for the holidays granted to the State Government teachers. The counsel further submits that so far as vacation is concerned the State Government has reduced the vacation from 95 days to 65 days and therefore the applicant is also entitled to 65 days of vacation holidays. The counsel also submits that the ^{he earned} main leave granted in lieu of curtailment of the vacation leave will not ipso facto, made applicable to the teachers of the respondents' schools.

6. I find merit in the said submission made by the Additional Central Government Standing Counsel. However, the fact remains that till 1998, based on the vacation available to the State Government Teachers the Teachers of the respondents schools were getting 95 days vacation and that as a result of curtailment of vacation leave from 95 to 65 days in State Government, the leave enjoyed by the applicant and the other similarly situated teachers were also reduced by 30 days and when the State Government has granted 10 days earned leave for the said curtailment of the vacation, certainly it is a matter for the Central Government to consider as to why such benefit should not be extended to the Teachers of the Schools under the respondents. Of course this is a matter for consideration by the Government.

for

7. In the circumstances, I am of the view that instead of interfering with the decision taken by the respondents in the light of the rules invogue a direction can be issued to the first respondent to consider the question of grant of earned leave in view of the curtailment of vacation holidays from 95 to 65 as done by the State Government. Accordingly, there will be a direction to the first respondent to consider the question of extending the same benefit as granted to the teachers of the State Government on account of curtailment of vacation holidays from 95 to 65 days and pass appropriate orders in accordance with law within a period of 4 months from the date of receipt of this order. Needless to say that if any decision is taken by the first respondent in favour of the position canvassed by the applicant, certainly it must also consider the question whether it can be extended to the applicant in respect of prior period also.

8. Accordingly, the OA is disposed of as above. The counsel for the applicant and respondents may furnish a copy of this order to the first respondent for compliance. No costs.

(G. Sivarajan)
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अर्को पित:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसल
- (4) कक्षपाल, को.प्र.अ., जबलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही

न्याय निरीक्षक

A.K. Pare, Adv. J.P.
P. Shankar, Adv. J.P.

14-3-06