

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT GWALIOR

OA No. 275/04

Gwalior, this the 23rd day of June 2005.

CORAM

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN
HON'BLE MR.MADAN MOHAN, JUDICIAL MEMBER

Smt. Suman Agarwal
W/o Sh. Kailash Narain Agarwal
Kampoo, Near Jawahar Nagar Post
Office, Lashkar, Gwalior

Applicant

(By advocate None)

Versus

1. The Secretary
Ministry of Defence
New Delhi.
2. Maha Nideshak Rashtriya Cadet Core
West Block, R.K.Puram
New Delhi.
3. Deputy D.G. NCC
E-5 Arera Colony
Bhopal.
4. Group Commander Gwalior
Group NCC S.A.F. Ground Kampoo
Gwalior.
5. Kaman Adhikari
3, M.P. Kanya Vahini, NCC Kampoo
Gwalior.
6. Lekha Adhikari
P.A.O. (ORS) Corpse of Signal
Jabalpur.

Respondents

(By advocate Shri V.K.Sharma)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Quash the orders deducting Rs.27,000 from retiral benefits as contained in Annexure A2 & A12.
- (ii) Direct the respondents to pay the deducted amount of Rs.27,000 along with 12% interest to the applicant.

2. The brief facts of the case are that the applicant was appointed on 23.2.80 on the post of GCI in M.P.Kanya Vahini, Gwalior Kampoo Lashkar Gwalior by the District General NCC, New Delhi. The applicant was granted two spells of maternity leave for 90 days each during the years 1983 and 1984. The applicant applied for maternity leave for 90 days for the third time during 1988, which was granted and she was paid Rs.4,500/- by the respondents, which was claimed to be Rs.27,000 by the respondents. Applicant applied for voluntary retirement which was accepted w.e.f. 30.11.2000. She was entitled for encashment of 110 days of EL but only 20 EL encashment was made and 90 days EL were adjusted/debited against the third maternity leave granted in the year 1988, treating it as irregular and Rs. 27,000 was deducted from the applicant. Though the applicant made several representations claiming the deducted amount back, no reply has been received. Hence this OA is filed.

3. None for the applicant. Hence the provision of Rule 15 of CAT (Procedure) Rules, 1987 is invoked.

4. Heard the learned counsel for respondents.

5. It is argued on behalf of the respondents that when the entire service record of the applicant was checked and verified by the statutory audit authority, after her voluntary retirement, it was found that the maternity leave availed for the third time by the applicant was not according to the statutory rules and hence the said authority adjusted her 90 days leave accumulated and sanctioned encashment of the remaining 20 days earned leave. It was done on 30.11.2000. Hence the cause of grievance arose on 30.11.2000 whereas the OA has been filed on 27.3.2004. Therefore the OA is barred by limitation under Section 21 read with section 20 of the AT Act. The applicant has not at all objected to the deduction of Rs.27,000 but has only requested to deduct the same from

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her sick leave. In regard to her request to change the nature of leave, it is stated by the respondents that such a request was not granted by the respondents on the ground that it was time barred. Any request for change of the nature of leave has to be made within a period of 30 days of joining duty, on the expiry of relevant spell of leave as per Rule 10 (1) of Leave Rules. Moreover, conversion of leave into another kind is permissible only when applied for by the official while in service and not after quitting service. Learned counsel for respondents further argued that the applicant has not submitted any application for condonation of delay in filing the present OA.

6. After hearing the learned counsel for the respondents and carefully perusing the records, we find that the applicant has availed maternity leave twice during the period from 5.11.1983 to 2.2.1984 and 27.8.1984 to 23.11.1984 i.e. two spells of 90 days each. The applicant is not entitled to avail maternity leave for the third time. In the case of maternity leave, the CCS (Leave) Rules, 1972 provides as under:

"A female Government servant (including an Apprentice) with less than two surviving children may be granted maternity leave by an authority competent to grant for a period of 90 days from the date of its commencement."

The applicant's request for voluntary retirement was accepted w.e.f. 30.11.2000. Thereafter, on examination of the service records of the applicant, the audit party i.e. PAO (Hrs.) Corps of Signals, Jabalpur found that the maternity leave availed by the applicant for the third time was against rules and hence the audit authority adjusted her 90 days EL against the maternity leave availed by her and the remaining 20 days EL was allowed to be encashed. Apparently the applicant has not objected to the aforesaid arrangement of deduction



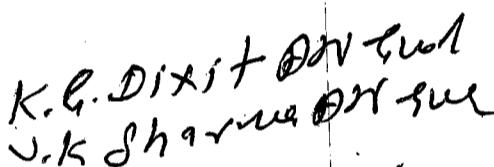
and encashment. The plea taken by the applicant to change the nature of leave was not accepted by the respondents because such a change has to be made within a period of 30 days from the date of joining duty, on expiry of the relevant spell of leave. The applicant did not apply for the change within the prescribed period.

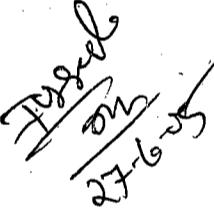
7. Considering all facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly, the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.

प्रशंसन से ओ/आ..... जबलपुर, दि.....
प्रतिलिपि अधोलिखित
(1) सतीष, उत्तर राज्य विधायक सभा, अध्यनपूर्ति
(2) अलेक्स शेर्मा, उत्तर राज्य विधायक सभा, अध्यनपूर्ति
(3) पर्यावरणी शेर्मा, उत्तर राज्य विधायक सभा, अध्यनपूर्ति
(4) विष्वामित्र, उत्तर राज्य विधायक सभा, अध्यनपूर्ति
सूचना एवं अधारपत्र अधिकारी, दिनांक

K.L. Dixit O.P. Govt
J.K. Sharma O.P. Govt


T.S. Singh
27-6-2005