

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application 764 of 2002

Jabalpur, this the 26th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. R.K. Upadhyaya- Member (Admnv.)

Mrs. A.M. Tamboli
W/o Shri M.Y Tamboli
Aged 60 years,
Retired Home Science Teacher Gradel,
Kendriya Vidyalaya No. 1,
Gun Carriage Factory, G.C.F. Estate,
R/o Flat No. A-1, Prestige Homes,
South Civil Lines,
Jabalpur (M.P.)

APPLICANT

(By Advocate- Shri Sajid Akhtar on behalf of Shri B.da.Silva)

VERSUS

1a Union of India.

1 Commissioner
Kendriya Vidyalaya Sangathan
New Delhi.

2. Assistant Commissioner/Regional Officer
Kendriya Vidyalaya Sangathan
Regional Office, G.C.F. Estate,
Jabalpur.

3. Principal
Kendriya Vidyalaya No. 1,
Gun Carriage Factory, G.C.F. Estate,
Jabalpur (M.P.)

RESPONDENTS

(By Advocate - Shri M.K.Verma)

ORDER (Oral)

By R.K.Upadhyaya, Member (Admnv.)-

The only grievance of the applicant in this application is non-payment of full earned leave encashment. The applicant claims that she has been entitled to leave encashment of 248 days whereas the department has paid leave encashment for 190 days only.

2. It is stated by the applicant that she retired on 30.9.2002 on attaining the age of superannuation after serving the respondents-organization for more than 39 years. The applicant has stated that in the year 1967 it was decided that the teachers working in Kendriya Vidyalayas

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(for short 'KVs') were to be imparted training, if they were untrained teachers, through a Summer School cum Correspondence Courses at Regional College of Education Bhopal. A copy of the such circular dated 10.3.1967 has been filed as Annexure-A-3. The applicant claims that she availed this facility by undertaking the course in the summer of 1968 and 1969. The total period of the training course was 100 days during summer vacation. According to the applicant she was treated as on duty and could be entitled to leave in lieu of the duty. The applicant has also filed a certificate issued by the Principal, KV, GCF, Jabalpur as Annexure-A-4 in which various entitlements of the applicant have been mentioned and the 'E.L.Due' has been shown as '248 days'. The claim of the applicant is that the order of respondent no.2 dated 19.9.2002 (Annexure-A-2) should be set aside and he may be directed to pay leave encashment on the basis of earned leave due of 248 days (instead of 190 days).

3. The respondents in their reply have stated that the applicant has filed this O.A. without exhausting the remedy available to her under the service rules. It has also been stated that the service book of the applicant is not counter-signed so far. There is no sponsorship of the applicant for attending summer course for doing B.Ed. Therefore, the claim of earned leave in excess of 190 days is not admissible to her.

4. We have heard the learned counsel of the parties and have perused the material available on record. The respondents in their reply have not categorically stated that the applicant was not eligible for earned leave in view of her attending the B.Ed. course during summer vacations. Merely because this was not counter-signed in the service book, the claim could not be refused, the same could have been verified with reference to collateral evidence available with the respondents with the help of

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the applicant. We are of the view that the respondents may recast the leave account of the applicant in accordance with the rules and instructions on the subject. If the earned leave due to the applicant is found to be in excess of 190 days on the date of superannuation, the applicant should be paid leave encashment amount accordingly. We accordingly order the respondents to complete this exercise including the payment to be made to the applicant if the same is found due within a period of two months from the date of receipt of a copy of this order.

5. In view of our observation in the preceding paragraph, this application is disposed of without any order as to costs.

(Signature)

(R.K. Upadhyaya)
Member (Admnv.)

(Signature)

(Shanker Raju)
Member (Judicial)

rkv.

पृष्ठान्त सं अ/त्या..... जयपुर, दि.....

(Signature) Balasubrahmanyan
(Signature) R. K. Upadhyaya
(Signature) 1.4.03

Issued
on 2.4.03
BS