

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.214 of 1998

Jabalpur, this the 24th day of February, 2003

Hon'ble Mr.R.K.Upadhyaya-Member(Administrative)  
Hon'ble Mrs.Meera Chhibber-Member (Judicial)

Gondulal Bajilal, aged about 60 years,  
S/o Bajilal, Retd. Passenger Driver,  
Central Railways, Amla, R/o C/o G.B.Mokhade,  
Near Aam Wala Baba, Central Railways, Amla - APPLICANT

(By Advocate-Jr.to Sh.A.G.Dharde)

Versus

1. Union of India through the General Manager,  
Central Railways, Shivaji Terminus, Mumbai.
2. Divisional Railway Manager, Central Railways,  
Nagpur.
3. Loco Foreman, Central Railways, Amla - RESPONDENTS

(By Advocate - Shri N.S.Ruprah)

O R D E R (Oral)

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

The applicant has sought the following reliefs-

- "(i) the order dt.13.11.96(ANN-A/3) and order dt. 30.5.97 (ANN-A/6) be quashed and the non-applicants be commanded to compile the leave account of the applicant in accordance with the Memo Book and pay him his dues forthwith with interest at the market rate;
- (ii) Any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case."

It is stated by the learned counsel of the applicant that by an order dated 13.11.1996 (Annexure-A-3) the applicant was informed that no leave with pay was due to his credit, therefore, no leave encashment can be paid to him on his superannuation, On 30.4.1995. On his representation, the applicant was further intimated vide letter dated 13.5.1997 (Annexure-A-6) that his records were checked but no leave was found due, therefore, no leave encashment could be paid to him. However, it was promised that the applicant could see the original records from the office. The learned counsel states that in pursuance to this letter, the

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applicant tried to contact the concerned officers, but he was not allowed ~~xxx~~ access of the records, therefore, the leave could not be verified by him. The learned counsel of the applicant further states that from the reply filed it can be found that the leave due as pointed out by the respondents has not been correctly stated.

2. The learned counsel of the respondents stated that ~~during xxx~~ the pendency of this O.A. records have been rechecked and it has been found that the applicant has been granted leave in excess of what was due to him. Therefore, a recovery of more than Rs.15,000/- is to be made from him because of leave granted in excess than the entitled leave.

3. After hearing the learned counsel of both the parties and after perusal of the records made available and without expressing any opinion on the merits of the claim of the applicant, it is considered desirable that the respondent no.2 i.e. the Divisional Railway Manager, Central Railway, Nagpur, either himself or by some senior officer authorised by him, may reexamine the claim of the applicant. A perusal of the reply filed by the respondents shows that the respondents have been changing their stand by filing different calculation of leave at least on three different occasions giving different no of days of leave due to the applicant. This requires proper verification with reference to the original leave records, which were not made available at the time of hearing of this application. In the circumstances, the above direction is being issued.

3.1 The applicant is directed to send a copy of this order to respondent no.2 within three weeks from today. The applicant may also point out as to what could be the due leave as per the statements now filed in reply to this O.A.. He may also be permitted to see the original records in the presence of some responsible officer to ascertain his entitlement to leave.

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3.2 If the applicant complies with the above direction, the respondent no.2 is directed to take a final decision in the matter either personally or through a senior officer authorised by him within a period of two months from the date of receipt of such a representation and copy of this order. He is also directed to pass a speaking order and communicate promptly the same to the applicant within the said period of two months.

3.3 It is clarified that the applicant may not be asked to refund any amount, if any excess amount becomes recoverable from him as a consequence of the exercise now to be made in pursuance to the claim of the applicant.

4. In view of the directions in the preceding paragraph, this application is disposed of without any order as to costs.

(Mrs.Meera Chhibber)  
Member (Judicial)

(R.K.Upadhyaya)  
Member (Adminv.)

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