

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 21st day of October, 2010

ORIGINAL APPLICATION NO. 312/2009

CORAM

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

L.K. Shrivastava son of Late Shri R.C. Shrivastava, about 66 years,
resident of 42/56/10, Mansarovar, Jaipur.

.....Applicant

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Kendriya Vidyalaya Sangathan through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur.
3. Education cum Grievance Officer, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur.
4. Principal, Kendriya Vidyalaya No. 4, Cant Area, Jaipur.

.....Respondents

(By Advocate: Mrs. Usha Singh)

ORDER (ORAL)

The applicant is the husband of Late Smt. S.K. Shrivastava. The wife of the applicant while working as PGT at Kendriya Vidyalaya No. 4, Jaipur, died on 19.01.2003. The grievance of the applicant in this case is regarding the impugned order dated 20.11.2008 (Annexure A/1) whereby the representation of the applicant dated 10.09.2008 was again rejected in the light of the earlier communication dated 23.07.2008 (Annexure A/2). It is these two orders (Annexure A/1 and Annexure A/2), which have been challenged in this OA with further prayer that respondents may be directed to take into consideration

2

vacation and autumn breaks of the preceding academic year 2001-2002 and make payment of vacation salary to the applicant.

2. As can be seen from the impugned order dated 23.07.2008 (Annexure A/2), the claim of wife of the applicant for payment was regarding vacation salary of year 2002 and the same was rejected on the ground that she had not worked for a minimum period of five months in the preceding academic year 2001-2002.

3. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, the respondents have categorically stated that Late Smt. S.K. Shrivastava had worked only for 106 days in the academic year 2001-2002, as per the details given hereinunder:-

i)	Working days in the year 2001-2002	59 days
ii)	Casual leave in the year 2001-2002	12 days
iii)	Gazetted Holidays in the year 2001-2002	07 days
iv)	Second Saturdays in the year 2001-2002	04 days
v)	Sundays in the year 2001-2002	14 days
vi)	Winter breaks in the year 2001	10 days
	TOTAL	106 days

4. The respondents have further submitted that the vacation period of the previous year cannot be counted for making the payment of vacation pay for the subsequent year. They have further stated that in this reference to this aspect, headquarter office has already informed vide letter dated 23/24.12.2008 with reference to point raised under paragraph 1(i), (ii), and (iii) that Sunday, Gazetted Holidays, vacation, autumn and winter breaks are to be counted while counting service period of a teaching employee. However, vacation period of the previous year cannot be counted to get the vacation pay for the

subsequent year. Thus according to the respondents, since the wife of the applicant did not worked for five months in the preceding academic year, thus the claim for salary for vacation is not sustainable in the eyes of law.

5. The applicant has filed rejoinder thereby reiterating the submissions made in the OA.

6. I have heard the learned counsel for the parties and have gone through the material placed on record. According to me, the applicant is not entitled to any relief for more than one reasons. From the material placed on record, it is evident that the claim pertains to payment of vacation salary for the year 2002 for which the applicant wants to count vacation period of the previous year. The cause of action has arisen in the year 2002. The vacation salary for the year 2002 was denied to the wife of the applicant. Unfortunately, she died on 19.01.2003. Admittedly, no representation was made by Late Smt. S.K. Shrivastava. The applicant has made grievance for the first time in March, 2008. Thus according to me, the said belated claim cannot be entertained in view of the provisions contained under Section 21 of the Administrative Tribunal's Act, 1985. In Para No. 3 of the OA, the applicant has stated that the present OA is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985. No application for condonation of delay has been made by the applicant. Accordingly to me, payment of salary for vacation period 2002 is a one time cause of action and cannot said to be continuous cause. Thus the application is required to be rejected on this count.

62

7. That apart, the applicant is also not entitled to any relief being legal heir of Late Smt. S.K. Shrivastava. This being the personal claim pertaining to the wife of the applicant, judicial proceedings by the heirs for enforcement of such claim cannot be entertained unless the right of the deceased employee to get salary for the said vacation period has been determined and deceased employee is held entitled.

8. As already stated above, since the right to receive the salary has not been determined, the heir of the deceased employee i.e. the applicant is not entitled to seek relief for enforcement of the claim.

9. For the foregoing reasons, the OA is bereft of merit and is accordingly dismissed with no order as to costs.


(M.L. CHAUHAN)
MEMBER (J)

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