

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-188/2015

Reserved on : 30.05.2016.

Pronounced on : 03.06.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Smt. Vandna Arora Tetri,
W/o Sh. Arun Kumar Tetri,
TGT (Natural Science), E.Id : 19990250
R/o 7, Sahyog Apartments,
Mayur Vihar-I, Delhi-110091.

.... Applicant

(through Sh. Jagat Singh, Advocate)

Versus

1. The Director of Education/DE
The Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat, Delhi-110054.
2. The Regional Director of Education
(West-A)/RDE(W-A)
The Directorate of Education, Govt.
of NCT of Delhi, Lucknow Road,
New Delhi.
3. The Deputy Director of Education
(West-A)/DDE (W-A)
The Directorate of Education, Govt.
Of NCT of Delhi, Govt. CoEd. SSS,
Karampura, New Moti Nagar,
New Delhi-110015.

..... Respondents

(through Sh. K.M. Singh, Advocate)

ORDER

The applicant joined the post of Assistant Teacher with the respondents on 02.09.1999. She got promoted as TGT (Natural

Science) on 24.05.2010. According to her, she gave birth to a female child on 13.09.2010. On 21.06.2011, she applied for Child Care Leave (CCL) w.e.f. 11.07.2011 to 31.03.2012 (265 days) to take care of her child, who was frequently falling sick. She enclosed supporting medical documents along with her application. The Head of school also certified that alternative arrangements will be made in the school in case CCL to the applicant was sanctioned. Even then the respondents rejected her leave application by a cryptic order dated 03.08.2011 (page-52 of the paper-book). Consequently, she was forced to avail earned leave from 26.07.2011 to 31.07.2011 and Half Pay Leave (HPL) from 02.08.2011 to 06.08.2011. Since her child was constantly having diarrhea, she again approached the authorities for grant of CCL to her but did not get any favourable response. She was then forced to apply for Extra Ordinary Leave (EOL) for one month to take care of her ailing daughter. This EOL was sanctioned. However, due to her daughter constantly falling ill, she had to extend EOL almost every month till 20.04.2012. Vide order dated 12.06.2013, the respondent No.3 regularized the entire period of absence as follows:-

17.08.2011 to 31.08.2011 : 15 days HPL
01.09.2011 to 20.04.2012 : 233 days EOL on private affairs

2. On 09.07.2013, the applicant made a representation to respondent No.3 requesting that her EOL be converted into CCL as this was taken to take care of her infant daughter. The respondents

rejected her request vide order dated 06.09.2014. Hence, she has filed this O.A. before us seeking the following relief:-

- “(a) Quash/set aside the order dated 06.09.2014 passed by/ on behalf of the Director of Education.
- (b) Direct the Respondent Department to convert the applicant's 233 EOL (which she was forced to avail on the medical grounds of her daughter after the rejection and non-consideration of her Child Care Leave (CCL) applications) into Child Care Leave (CCL) as per Rule 10 of Central Civil Services (Leave) Rules, 1972.
- (c) Direct the respondent department to grant the rightful increment and dues of the applicant due w.e.f July 2012.
- (d) Pass any other order/direction which the Hon'ble Tribunal deems fit and proper in the circumstances of the matter.”

3. In their reply, the respondents have submitted that the applicant had applied for CCL on 21.06.2011 but the same was rejected by the competent authority on 03.08.2011. She again applied for EOL on private affairs from 01.09.2011 to 30.09.2011 for one month, which was sanctioned by the competent authority. However, she did not resume her duty on 01.10.2011. Instead, she reported for duty only on 21.04.2012. The applicant then submitted an application for leave from 01.10.2011 to 31.03.2012 on the ground for rearing and caring of one year old daughter. EOL was sanctioned upto 14.11.2011 at school level and for the remaining period the application was forwarded to DDE West-A. However, since she had not resumed her duty a memorandum was issued to her on 22.03.2012. Subsequently, a request was received from her on

09.07.2013 that all her EOL may be converted into CCL. This request was declined as she was not found eligible for grant of CCL.

4. I have heard both sides and have perused the material on record. It is revealed from the records that the applicant had first applied for 265 days CCL from 11.07.2011 to 31.03.2012 vide her application dated 21.06.2011. At that point of time it is not disputed that there was a balance of 281 days of CCL in her leave account. In her application she had submitted that she was asking for CCL as her daughter was not keeping well and suffering from recurrent diarrhea. Along with her application she had enclosed not only the birth certificate of her daughter but also a doctor certificate to this effect. The Head of School had also forwarded her application and certified that in case CCL was granted to her, alternative arrangements will be made to teach in her place in the school. The respondents, however, rejected this application without assigning any cogent reason by their cryptic order dated 03.08.2011.

5. In my opinion, this stand of the respondents was totally unjustified. As per the provisions of CCL, such leave is admissible in case of illness of the child. The leave asked for was also due in her account. The Head of the School had also certified that teaching in the school would not suffer as alternative arrangements would be made. Yet, without giving any reasons, the respondents rejected her request. Due to callous attitude of the authorities, benefit of a

welfare Scheme introduced by the Government for female employees could not be extended to the applicant. She was, therefore, forced to take EOL. When she applied for conversion of this EOL into CCL, the authorities rejected the same also on the ground that EOL had been taken on private affairs and cannot be converted into CCL. The respondents have failed to appreciate that the applicant had first applied for CCL only on the ground of taking care of her daughter and CCL for this purpose was admissible under the Rules. It was only when the CCL was refused that she had to avail of EOL.

6. Under these circumstances, I find ample justification in allowing this O.A. and quashing the impugned order dated 06.09.2014 of the respondents as well as their order dated 03.08.2011 by which CCL application of the applicant was initially rejected. I order accordingly. I further direct the respondents to reconsider her case for grant of CCL in the light of observations made above. This shall be done within a period of 60 days from the date of receipt of a certified copy of this order. In case CCL is granted to her she would also be entitled to consequential benefit of increment as well as arrears of pay. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/