

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

OA-1708/2013

Reserved on : 22.04.2016.

Pronounced on : 29.04.2016.

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

Mrs. Surjeet Kaur,
R/o 14/9, Sewa Nagar Railway Colony,
New Delhi-110003.

....

Applicant

(through Sh. Yogesh Sharma, Advocate)

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Additional Registrar,
Railway Claims Tribunal,
13/15, Mall Road, Delhi.
3. The Additional Registrar,
Railway Claims Tribunal,
Near New Ghaziabad Railway Station,
Lohia Nagar, Ghaziabad (UP).

....

Respondents

(through Sh. R.N. Singh, Advocate)

O R D E R

The applicant is an employee of Railway Claims Tribunal. Her contention is that Railways accepted the Government of India O.M. dated 11.09.2008 regarding child care leave (CCL) and issued their Circular dated 23.10.2008 by which CCL could be granted w.e.f. 01.09.2008. Further, in their Circular dated 04.10.2010, *inter alia*, the following has been provided:-

"2. In pursuance of the decision taken by the Government, the Ministry of Railways have decided to delete the condition that CCL can be availed only if the employee concerned has no LAP at her credit, subject to the following conditions:-

- (i) CCL may not be granted in more than 3 spells in a calendar year.

(ii) CCL may not be granted for less than 15 days.

(iii) CCL should not ordinarily be granted during the probation period except in case of certain extreme situations where the leave sanctioning authority is fully satisfied about the need of Child Care Leave to the probationer. It may also be ensured that the period for which this leave is sanctioned during probation is minimal.

3. It is reiterated that the CCL is to be treated like LAP and sanctioned as such.

4. These orders take effect from 1.9.2008. LAP, if any, availed by women employees before availing CCL subsequent to the issue of the Board's letter of even number dated 12.12.2008 may be adjusted against CCL, if so requested by the employee regardless of condition 2(i) and 2(ii) above."

2. The applicant has stated that in terms of Para-4 of the Circular extracted above, she applied for conversion of LAP granted to her for various periods into CCL. The different periods of LAP were as follows:-

<u>"Period</u>	<u>Days</u>
14.10.2008 to 23.10.2008	10 days
4.11.2008 to 7.11.2008	4 days
18.11.2008 to 28.11.2008	11 days
2.12.2008 to 5.12.2008	4 days
14.10.2008 to 23.10.2008	10 days
10.12.2008 to 11.12.2008	2 days
15.12.2008 to 19.12.2008	5 days
5.1.2009 to 6.1.2009	2 days
12.1.2009 to 23.1.2009	12 days
27.1.2009 to 26.2009	31 days
2.3.2009 to 6.3.2009	05 days
16.3.2009 to 24.3.2009	09 days"

3. However, the respondents vide their impugned order have refused to accede to her request despite the fact that Government circular provides for the same and even General Manager's office vide their letter dated 10.04.2013 (page-166 of the paper-book) had requested the Railway Claims Tribunal to consider her case. She has, therefore, approached this Tribunal seeking the following relief:-

“(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 01.11.2012 to the extent by which instead of granting the CCL from 01.04.2011 to 27.04.2011 the respondents sanctioned the earned leave to the applicant and also rejected the request of the applicant for regularization of the earned leave as CCL from 14.10.2008 to 23.10.2008 and 4.11.2008 to 24.3.2009 and number of other short period availed after 01.09.2008 and from 09.11.2010 to 10.02.2011 and from 01.04.2011 to 27.04.2011 consequently pass an order directing the respondents to grant the CCL to the applicant from 14.10.2008 to 23.10.2008 and 4.11.2008 to 24.3.2009 and number of other short period availed after 01.09.2008 and from 09.11.2010 to 10.02.2011 and from 01.04.2011 to 27.04.2011 with all consequential benefits.

(ii) That the Hon'ble Tribunal may further graciously be pleased to pass an order directing the respondents to consider the request/representation of the applicant dated 08.11.2010 for converting the LAP of various period into CCL as per the Railway Board Circular dated 04.10.2010 with all consequential benefits including restoration of the LAP in the leave account of the applicant.

(iii) That the Hon'ble Tribunal may further graciously be pleased to pass an order of quashing the impugned order dated 8.2.13 and 25.2.13.

(iv) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant with the costs of litigation.”

4. In their reply, the respondents have seriously opposed the averments made in the OA. According to them, as per Rule-503 of Leave Rules Chapter-5 of Indian Railway Establishment Code (Vol-I), leave cannot be claimed as a matter of right and leave of any kind may be refused or revoked by the authority competent to grant the same. Further, they have submitted that as soon as the provision for CCL came into existence, the applicant has been frequently absenting herself and has not cared for her official responsibilities. When she asked for conversion of LAP into CCL she did not disclose any evidence to support her claim for CCL. With their reply, the respondents on pages 56 to 64 of the paper-book have enclosed the various leave applications submitted by the applicant. These applications reveal that she had sought LAP on different grounds, such as, marriage of her nephew, suffering from fever, illness and to attend to her child studying in Class-X.

5. I have heard both sides and have perused the material on record. Learned counsel for the applicant argued that the applicant's son was suffering from thalassemia and also had three attacks of acute typhoid. Due to his frequent illness, the applicant's child was not doing well in studies and needed personal care and attention. It is for this reason that the applicant had taken leave.

6. I have considered the aforesaid submission of the applicant. This is not borne out by the leave applications submitted by her when asking for LAP. Various reasons given in the application were as mentioned above, such as, marriage of nephew, applicant unwell or suffering from fever etc. On going through the circulars pertaining to CCL, I find that CCL cannot be granted for the purposes mentioned in the applications of the applicant. Further, I find merit in the contention of the respondents that the applicant has been indisciplined and has not been taking care of her official responsibilities. This is evident from the frequency with which the applicant had been seeking leave. There is also merit in the submission of the respondents that leave was not a matter of right and could be denied by the authority competent to sanction the same.

7. Under these circumstances, I do not find any merit in this O.A. and the same is dismissed. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/

