

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 4672/2015

M.A. No. 1941/2016

New Delhi this the 31st day of August, 2016.

HON'BLE MR. P.K. BASU, MEMBER (A)

Ashes Kiran Prasad,
S/o Late Shri Dhanushdhar Prasad,
Aged 58 years,
R/o B-504, Shatabdi Rail Vihar,
B-9/4, Sector-62, NOIDA (UP)-201309.
Presently working as Sr. Administrative Grade Officer
In North Western Railway, Jaipur.
Residing in:
Room No.1, Loco Railway Officers' Rest House,
Ganapati Nagar, Hasanpura Road,
Jaipur-302006. .. Applicant

(By Advocate : Ms. Ayushi Kiran)

Versus

1. Union of India,
Through the Chairman,
Railway Board, Rail Bhawan,
New Delhi-110001.
2. General Manager,
Baroda House,
Northern Railway,
New Delhi-110001.
3. General Manager,
Jawahar Circle,
North Western Railway,
Jaipur-302017. .. Respondents

(By Advocate : Shri R.N. Singh with Shri K.M. Singh)

ORDER (ORAL)

Heard the learned counsel for both sides.

2. It is stated by the learned counsel for the applicant that prayer No.(ii), i.e. leave for the balance period of 29.08.2008 to 19.09.2008 has already been allowed by the respondents during the pendency of this O.A. and, therefore, only prayer (i) survives, i.e. commuting the 9 days sick leave into 18 days leave as Half Leave of Average Pay (HLAP) for a period from 20.08.2008 to 28.08.2008, when the applicant was under treatment and on sick leave.

3. It appears from Annexures A/4 and A/5 that the applicant was indeed suffering from viral fever and was under treatment from 20.08.2008 to 27.08.2008 and duty/fitness certificate dated 28.08.2008 clearly mentions this. However, the respondents stand, as it appears from their reply, is that the sickness and fitness certificates are not in proper proforma and as the matter pertains to the year 2008, case cannot be processed now.

4. In my view, what is to be seen by the respondents is whether the applicant was indeed sick and was on leave due to sickness. The certificate mentioned above are issued by the Medical Director, Central Hospital, North Western Railway, who is a medical officer of the respondents' organisation. Therefore, I fail to understand why the respondents do not wish to respect this certificate just because

it is not in some prescribed proforma. After all, the medical officer should have known about the proforma of certificate to be issued and the employee concerned cannot be expected to know that. The respondents clearly are missing the woods for the trees! For them, unfortunately 'form' takes precedence over 'substance'.

5. The O.A. is, therefore, allowed and the respondents are directed to convert 9 days sick leave of the applicant for the period from 20.08.2008 to 28.08.2008 into 18 days HLAP. Time frame for compliance of this order is fixed as 60 days from receipt of certified copy of this order.

6. In view of final orders passed in the O.A., MA 1941/2016 also stands disposed of. No order as to costs.

(P.K. Basu)
Member (A)

/Jyoti/