

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.021/00328/2018

Date of Order: 14.08.2018

Between:

P. Ramchander Rao,
S/o. Sri Madhava Rao, aged 60 years,
Retd. Chief Commercial Inspector, S.C. Rly., Gr. 'B',
Presently residing at H. No. 6-2-94 & 95, Flat No. 201,
Vinayaka's MB's De Royale Apartments,
New Bhoiguda, Secunderabad – 500 003.

... Applicant.

And

1. Union of India, South Central Railway,
Rep. by its General Manager,
3rd Floor, Rail Nilayam,
Secunderabad – 500 0071.
2. Senior Divisional Personnel Officer,
Secunderabad Division, South Central Railway,
IV Floor, Sanchalan Bhavan, Secunderabad -71.
3. Senior Divisional Commercial Manager,
Secunderabad Division, South Central Railway,
I Floor, Sanchalan Bhavan, Secunderabad -71.

... Respondents

Counsel for the Applicant ... Mr. P. Ramchander Rao, Party in Person
Counsel for the Respondents ... Mr. N. Srinivasa Rao, SC for Railways.

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORAL ORDER

{ As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

The applicant was selected as Probationary Commercial Clerk through Railway Service Commission, South Central Railway vide Lr. No. P.563/CC/SC/66 dated 06.04.1981 and he joined as Probationary Commercial Clerk at the office of the Chief Personnel Officer, Secunderabad. Thereafter, in the course of the service, he worked at different stations on transfer/ promotion as narrated in the OA. He retired as Chief Commercial Inspector on 30.11.2017.

2. While in service, the applicant sought for service record through an application under Right to Information Act on 27.06.2016 and the same was received on 18.08.2016, wherein he found that it was updated only for periods from July 1984 to September 1987 and from January 2000 to June 2016. Besides, an entry indicating that he was placed under suspension from 24.05.1986 to 19.08.1986, albeit he was promoted on 16.06.1986 and took charge in promotional grade on 18.06.1986. This fact was also recorded in the service record.

3. On the representation of the applicant directly to 2nd respondent through Nivarana portal, it was informed that entry of suspension was deleted and that he has LAP of 300 days and LHAP of 38 days.

4. On retirement, the applicant was paid for 291 days LAP instead of 300 days on grounds that he has no LHAP to his credit. Accordingly, he was paid Rs.21,420/- less towards leave encashment and hence, the grievance leading to the present OA. Against the representation of the applicant dt. 4.12.2017, the 2nd respondent informed vide Lr. No.SCR/P-SC/Comml/Bills/132 dated 4.1.2018 that the LHAP availed during 1981-83 & 1988-99 could not be updated for want of relevant records. The relevant extracted is placed below:

“In terms of Rly. Boards Lr. No. F(E)III/2008/LE-1/2 dated 08.10.2008 both Earned Leave and Half Pay leave shall be considered for encashment of leave salary subject to over all limit of 300 days. As per available records in this office, the details of LHAP availed by you from the year 1981 to 1983 and from 1988 to 1999 are not available and the same could not be traced out even after a thorough search in the old records. This position was already advised to you on your representation through NIVARAN vide this office Lr. No. SCR/P-SC/Comml Bills/132 dated 31.10.207.”

5. The respondents were given ample opportunities to respond and finally they did file reply on 06.08.2018.

6. Respondents in their defence have only given details of how the EL was casted and used. There was no mention about the LHAP, for the periods stated in OA for which the service record was not maintained. The respondents claim that the applicant was also equally responsible for getting the service record maintained. Agreed, but the question rebounds on to the respondents as well.

7. Heard both sides and perused the relevant records. It is evident from the records that the 2nd respondent is responsible for maintaining the service records. Glaring mistakes like showing the official suspended during a period when he was actually promoted is surprising and negligence in maintaining an important record like the service record. The 2nd respondent admits vide letter dt. 4.1.2018 that LHAP details could not be updated as the relevant records for the years 1981-83 & 1988-99 could not be traced. Consequently, the applicant was paid for only 291 days of LAP. It is thus clear that due to the failure of the respondents to maintain service record of the applicant, the later is penalized. This is unfair and travesty of justice.

7. Therefore, the OA is allowed and the 2nd respondent is directed to credit the nine days deficit to the applicant's LAP account for reasons stated above and pay for the same as leave encashed, within 30 days from the date of receipt of copy of this order. No order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 14th day of August, 2018
(Dictated in open court)

al/evr