

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

Original Application No.456 of 2013

Reserved: 11.09.2018

Order pronounced: 17.09.2018

Between:

P.B. Dasan, S/o. Pazhanimala,
Aged 59 years, Occ: Station Superintendent,
Secunderabad Division, South Central Railway,
Sirpur Town Railway Station, Adilabad Dt.

... Applicant

And

1. Union of India, represented by
The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager,
Secunderabad Division, Sanchalan Bhavan,
South Central Railway, Secunderabad.
2. The Senior Divisional Financial Manager,
Secunderabad Division, Sanchalan Bhavan,
South Central Railway, Secunderabad.
4. The Senior Divisional Personnel Officer,
Secunderabad Division, Sanchalan Bhavan,
South Central Railway, Secunderabad.

... Respondents

Counsel for the Applicant	...	Mr. K.R.K.V. Prasad
Counsel for the Respondents	...	Mr. N. Srinatha Rao, SC for Railways

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
<i>Hon'ble Mr. Swarup Kumar Mishra</i>	...	<i>Member (Judl.)</i>

ORDER

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

The OA is filed for improper recasting of leave on average pay (LAP) while implementing the orders of this tribunal in O.A 48 of 2010.

2. Brief facts are the applicant joined the respondent organization as Asst Station master and rose to the level of Station Supdt. The applicant consequent to removal from service in a disciplinary case was reinstated as commercial clerk with all consequential benefits on the intervention of this tribunal in O.A

No.352 of 1989. One of the benefits to be extended is recasting of eligible LAP. After obtaining information under RTI the applicant found that as per ICC report dt 13.3.2007, 130 days (LAP) was shown as balance in his leave account. The applicant represented accordingly but was turned down on the ground that the LAP of said days was reduced because he was under suspension from duty for certain period. Aggrieved applicant filed OA 48 /2010 wherein it was ordered to treat the suspension period as service and credit LAP due to applicant's account. Accordingly 4th respondent re-casted the leave account and informed the applicant vide letter dt. 2.2.12 that the LAP credited is 220 days and Leave on half average pay as 244 days. Realizing that the leave was not correctly casted the applicant sought information under RTI act and found that the LAP for the period 1.1.1986 to 31.12.1992 was not credited since the work sheet had a remark that the leave account for the said period was not available, despite the fact that the ICC report for the same period showed a credit of 130 days. The applicant represented on 20.8.12 but there being no response approached the respondents under RTI act and thereupon he was informed that the leave account was casted as was informed vide lr. dt 2.2.12. As the respondents were unwilling to recast his leave based on facts the present O.A is filed.

3. The contention of the applicant is that although the ICC report has calculated the LAP for the period in discussion as 130 days the respondents not reckoning the same on grounds that the leave record is not available is doing injustice to him. If the 130 days shown by the ICC party is added to LAP of 220 days indicated by the respondents vide letter dt 2.2.12 the total available LAP will be 350 days but because of ceiling it needs to be shown as 315 days.

4. The respondents confirm that the leave record for the period 1.1.1986 to 31.12.1992 was not available and as per Railway Board lr dt 13.1.1993 the LAP

was worked out as 220 days. In the ICC report dt 13.3.2007 the LAP was shown as 130 days covering the period 1.1.1985 to 1.7.2000. However, in the report, period from 1.1.1987 to 24.2.1992 was treated as suspension /removal though the applicant has joined duty on 25.2.1992. This mistake was corrected while implementing the Tribunal order to credit in full the eligible leave for the period of suspension as ordered by the tribunal in OA 48/2010.

5. Heard the learned counsel. They argued on lines etched in their respective written pleadings.

6. The respondents non response to the applicant's representation dt 20.8.2012 to the 2nd respondent drawing his attention of the action of the 4th respondent in ignoring the leave of 130 days worked out by the ICC but working it out, on the basis of the leave account not being available for the period 1.1.1986 to 31.12.1992 in terms of Railway Board letter, is unfair. Had not the applicant obtained the information under RTI act the truth of the leave record not being available would not have come to light. When there is a authentic record which was duly vetted by the ICC team it is not understood as to why the respondents had to recast using a formula given in Railway Board lr dt 13.1.1993, based on the leave availed for the last 5 years. This approach of calculating the leave account gives an approximate value but not the absolute value. Approach can be adopted when there is no record available whatsoever. However, in the present case the report of the ICC showing 130 days LAP, after a rigorous check, being disregarded is beyond the realm of reason. Such a figure arrived at has to be considered since it has the authenticity of specialists in the domain namely the ICC team. Therefore, by considering this figure of 130 days the LAP to be credited to the leave account comes to 350 days but is restricted to 315 days due to the relevant ceiling. Being on the subject we also observe that

the applicant had to knock the door of the tribunal thrice on an issue which could have been avoided by proper interpretation of rules based on records as a model employer. Two of them were trivial. Respondent may like to note and act on the suggestion in the best interests of the Respondent organization and the employees who serve it.

7. Considering the facts stated above the respondents are directed to consider crediting LAP of 315 days as on 2.2.2012 to the applicant's leave account, with consequential benefits as ought to be given by the said revision of the LAP, within 90 days of the receipt of this order.

8. The O.A is thus allowed with no orders to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

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

Dated, the 17th day of September, 2018

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