

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
KOLKATA

No.O A /350/597/2018  
M.A.350/421/2018

Date of order : 24.8.18

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member  
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

Ms. Dipannita Das, daughter of Late Nalini Ranjan Das, aged about 42 years, working to the post of Upper Division Clerk in the Debts Recovery Appellate Tribunal, Kolkata 9, Old Post Office Street, 7<sup>th</sup> Floor, Kolkata – 700001 and Residing at 261(Old)/512(New), Rishi Bankim Avenue, Post Office-Bhadreswar, District-Hooghly, Pin-712124

.....Applicant

1. Union of India, represented through the Secretary, Government of India, Ministry of Finance (Banking Division), Department of Financial Services, 10, Parliament Street, New Delhi -110001;
2. The Under-Secretary, Government of India, Ministry of Finance (Banking Division), Department of Financial Services, 10, Parliament Street, New Delhi-110001;
3. The Registrar, Debts Recovery Appellate Tribunal, Kolkata 9, Old Post Office Street, 7<sup>th</sup> Floor, Kolkata – 700001;
4. The Section Officer, Debts Recovery Appellate Tribunal, Kolkata 9, Old Post Office Street, 7<sup>th</sup> Floor, Kolkata – 700 001;

.....Respondents

For the applicant : Mr. P.C. Das, counsel  
Ms. T. Maity, counsel

For the respondents : Mr. R. Halder, counsel

ORDERBidisha Banerjee, Judicial Member

The applicant has sought for the following reliefs:-

"8.(a) To quash and/or set aside the impugned office order dated 9<sup>th</sup> February, 2018 issued by the Registrar, Debts Recovery Appellate Tribunal, Kolkata by which 16 (sixteen) days earned leave of the applicant had been deducted from the leave account of the applicant illegally and arbitrarily because all those days the attendances of the applicant has been accepted and the applicant was present in the office on those days being Annexure A-1 of this original application.

(b) To quash and/or set aside the impugned office memo dated 12<sup>th</sup> April, 2018 issued by the Registrar, Debts Recovery Appellate Tribunal, Kolkata by which your applicant has been forced to submit application for adjustment of 46 (forty six) days earned leave illegally and arbitrarily from the leave account of the applicant against those days the applicant was present in the office and her attendance has been accepted by the office and the respondent authority has taken the service from the applicant during those days, therefore such enforcement of the Registrar upon the applicant vide memo dated 12<sup>th</sup> April 2018 is otherwise bad in law and illegal and it may be liable to be quashed and/or set aside in the eye of law being Annexure A-6 of this original application.

(c) To quash and/or set aside the impugned office memo dated 23<sup>rd</sup> April, 2018 issued by the Registrar, Debts Recovery Appellate Tribunal, Kolkata by which your applicant has been enforced to submit application for deduction of earned leave from her leave account against those period when your applicant was present in the office and her attendance has been accepted by the office and respondent authority has taken service from her, therefore, such enforcement is otherwise bad in law and illegal being Annexure A-9 of this original application.

(d) To quash and/or set aside the impugned office memo dated 16.02.2018 issued by the Registrar, Debts Recovery Appellate Tribunal, Kolkata being Annexure A-4 of this original application by which the application for LTC advance made by the applicant has been rejected by the respondent authority on the ground that 16 days earned leave has been deducted from the leave account of the applicant by the Registrar illegally against those days your applicant was present in the office and her attendance has been accepted by the department, therefore, non-granting of LTC advance and non-granting the Application for Child Care Leave and extension of leave in favour of the applicant is otherwise bad in law and

illegal and against the office memos dated 3<sup>rd</sup> April, 2018 and 11<sup>th</sup> January, 2016 issued by the Department of Personnel & Training, New Delhi.

(e) To declare that the action on the part of the Registrar, Debts Recovery Appellate Tribunal, Kolkata by issuing such impugned office memos and orders and not sanctioning the LTC Advance and not granting the Child Care Leave in favour of the by violation of the office memos dated 3<sup>rd</sup> April, 2018 and 11<sup>th</sup> January, 2016 issued by the Department of Personnel & Training is otherwise bad in law and illegal and is liable to be quashed and/or set aside.

(f) To pass an appropriate order directing upon the respondent authority to regularize the earned leaves which has been illegally deducted by the Registrar, Debts Recovery Appellate Tribunal, Kolkata from the leave account of the applicant totally 62 (sixty two) days of those day your applicant was present in the office and her attendance has duly been accepted by the department and they have taken the service from the applicant."

2. The order impugned in the present O.A. being 9<sup>th</sup> February, 2018 depicts that Earned Leave of the applicant has been adjusted against late attendance during the month of January, 2017 to June, 2017 vide memo dated 11.12.2017 as a result of which the balance of Earned Leave of the applicant has come to minus three(-3).


3. Admittedly such adjustment of Earned Leave has been done without due notice to the applicant.

4. The orders dated 12.04.2018 and other memos as contained in Annexure A/6 etc. further reveal that the Earned Leave of the applicant has been adjusted against "arrival without recording time", "late attendance" and "attendance after 1:30 a.m." which adjustment would have a specific and direct bearing on the earned leave encashment that would finally enure to the applicant on her retirement and such orders involving civil consequences and pecuniary damages

could not have been issued without initiating any disciplinary action, in such blatant violation of Principles of Natural Justice.

5. Ld. counsel for the respondents to defend the actions of the respondents would draw our attention to the Leave Rules which reads as under:-

**"Half-day's casual leave to be debited for late attendance** – The Government of India have had under consideration for some time past measure to enforce punctuality and ensure prompt and efficient transaction of work in Central Government offices. It has been found that in many offices, late attendance, with or without permission, is frequent. While occasional late attendance due to unavoidable reasons e.g. illness in the family, a cycle puncture, late running of buses/train, etc. may be condoned, there is no justification for frequent late attendance for these reasons. In fact, frequent late attendance even with prior permission is not conducive to the efficient transaction of work. It has accordingly been decided that half a day's casual leave should be debited to the casual leave account of a Government servant for each late attendance but late attendance up to an hour, on not more than two occasions in a month may be condoned by the competent authority if he is satisfied that it is due to unavoidable reasons like those mentioned earlier. In case such a course does not ensure punctual attendance of the Government servant, suitable disciplinary action may be taken against him in addition to debiting half a day's casual leave to his casual leave account on each occasion of such late attendance.



[G.I. , M.H.A. O.M. No.60/17/64/Ests.(A), dated the 4<sup>th</sup> August, 1965]"

6. The aforesaid provision is explicit and unambiguous in regard to initiation of disciplinary actions to ensure punctual attendance of Government servants in addition to demitting half a day's Casual Leave to his Casual Leave account on each occasion of such late attendance. The provision, however, never calls for adjustment of Earned Leave, which has been resorted to in this particular case, to penalise the applicant for her late attendance.

7. In as much as violation of their own rules by the authorities is palpable from the records, the orders, decisions and attempts have been made to adjust Earned Leave etc. without initiating disciplinary proceedings such orders in

violation of the provisions extracted(supra) are quashed and the matter is remanded back to the authorities to take an appropriate action in accordance with law within 4 weeks. The authorities shall also prepare or recast the leave account of the applicant suitably upon recalling of the orders impugned in the present O.A.

8. Accordingly stands disposed of. Consequently the M.A.No.350/421/2018 for vacation of interim order stands disposed of. No costs.

**(Dr. Nandita Chatterjee)**  
**Administrative Member**

**(Bidisha Banerjee)**  
**Judicial Member**

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