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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 351/00 1132/AN of 2018

IN THE MATTER OF:

SMT. BERNADETH EKKA, aged about 59 years, wife of Shri Egnesh Ekka, residing at Bambooflat, South Andaman-744104 and working to the post of Lab. Assistant in the G.B. Pant Hospital at Port Blair under Health Department, Andaman & Nicobar Administration.

...APPLICANT

-VERSUS-

1. UNION OF INDIA, service through the Secretary, Ministry of Health & Family Welfare, Government of India, 'A' Wing, Nirman Bhawan, New Delhi- 110011.
2. THE CHIEF SECRETARY, Andaman & Nicobar Administration, Port Blair-744101;
3. THE DIRECTOR OF HEALTH SERVICES, Andaman & Nicobar Islands, Andaman &

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Nicobar Administration, Port Blair-  
744101.

4. THE SECRETARY (PERSONNEL), office of  
Directorate of Health Services, Andaman &  
Nicobar Administration, Port Blair-  
744101.

5. THE ASSISTANT DIRECTOR  
(ADMINISTRATION), office of Directorate  
of Health Services, Andaman & Nicobar  
Administration, Port Blair- 744101.

...Respondents.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
KOLKATA

No.O A /351/1132/AN/ 2018

Date of order: 07.08.2018

**Coram : Hon'ble Mr. A. K. Patnaik, Judicial Member**

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

For the respondents : Mr. S.K. Ghosh, counsel

**ORDER(Oral)**

**A. K. Patnaik , Judicial Member**

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned order dated 24.05.2018 issued by the Assistant Director (Administration), Office of the Medical Superintendent, G.B. Pant Hospital, Port Blair by which the entire leave period of the applicant has been regularised from her earned leave.

2. In the O.A. the applicant has sought the following reliefs:-

"8.(a) To pass an appropriate order directing upon the respondent authority to modify the office order No. 745 dated 26<sup>th</sup> February, 2018 by which your applicant was allowed to resume duty with immediate effect i.e. with effect from 26<sup>th</sup> February, 2018 instead of with effect from 01.07.2017 and to regularize the intervening period by granting extraordinary leave and not regularize from the earn leave of the applicant being Annexure A-17 of this original application.

(b) To quash and/or set aside the impugned office order No. 1226 dated 24<sup>th</sup> May, 2018 issued by the Assistant Director ( Administration ), office of the Medical Superintendent, G.B. Pant Hospital, Port Blair and direct the respondent authority to regularize the intervening period by granting extraordinary leave and not regularize from the earn leave of the applicant as the order of transfer of the applicant has set aside by this Hon'ble Tribunal vide order dated 30.06.2017 in OA No. 351/108/2018 and in terms

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of the said order dated 30.06.2017 the intervening period has to be regularized by granting extraordinary leave but not from the earn leave;

(c) To pass an appropriate order directing upon the respondent authority that applicant's duty report has to be accepted from 01.07.2017 when your applicant was submitted the duty report but the respondent authority did not accept such duty report and issued speaking order by directing your applicant to resume duty immediately in the transfer post which has been quashed by this Hon'ble Tribunal vide order dated 30.06.2017 and on the strength of such order, the intervening period has to be regularized with effect from 01.07.2017 till 26<sup>th</sup> February, 2018 by granting extraordinary leave and not regularize the entire period from the earn leave and to release the settlement dues immediately after retirement of the applicant with all consequential benefits."

3. Heard Mr. P.C. Das leading Ms. T. Maity, Id. counsel for the applicant and Mr. S.K. Ghosh, Id. counsel for the respondents.

4. Mr. P.C. Das, Id. counsel for the applicant submitted that the applicant who is working as Lab Assistant under the respondents was earlier transferred from G.B. Pant Hospital at Port Blair to P.M. Radhanagar and challenging the said transfer order he approached this Tribunal by filing O.A.No.351/850/2017. Said O.A. was disposed of by this Tribunal vide order dated 30.06.2017 by directing the respondent authorities to decide the representation of the applicant and status quo as on that date so far as continuance of the applicant, was directed to be maintained till consideration of the representation of the applicant. Thereafter the applicant made representations to the authorities on 10.07.2017 and 12.07.2017 to allow her to resume duty in the light of the order of this Tribunal dated 30.06.2017 but that was not acceded to. It is further stated by Mr. Das that the applicant was granted leave for 45 days by the competent authority and during the period of her leave the order of relieve was issued against her. Later on, the order of transfer against the applicant was quashed by this Tribunal. The grievance of the applicant is that despite of her repeated requests she was not

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allowed to resume her duty and when the transfer order was set aside by this Tribunal and she made representation to regularise the intervening period, the entire leave period was deducted from her earned leave account which is not justified under the rules. It is submitted by Mr. Das that the applicant has filed a detailed representation to the Medical Superintendent, G.B. Pant Hospital, Port Blair on 31.05.2018(Annexure A/21) with copy to the Respondent No.3 i.e. the Director of Health Services, A&N Islands, Port Blair ventilating her grievances therein, but she received no response to the same till date, therefore, the applicant would be satisfied for the present if a direction is given to the Respondent No.3 i.e. the Director of Health Services, A&N Islands, Port Blair to consider and dispose of the representation of the applicant dated 31.05.2018(Annexure A/21) as per rules within a specific time frame.

5. On the other hand, Mr. S.K. Ghosh, Counsel for the respondents submitted that the applicant approached this Tribunal earlier for quashing of her transfer order and when the transfer order was set aside vide order of this Tribunal, the intervening period has been rightly adjusted from her Earned Leave account as there is no provision to grant extraordinary leave in such situation under the rules.

6. In my view, it is not the case that the applicant remained absent from duty unauthorisedly or she abandoned her service, therefore, she cannot be held responsible for delay in resuming her duties. Though no notice has been issued to the respondents, I think it would not be prejudicial to either of the parties, if the respondents are directed to consider the representation of the applicant dated 31.05.2018 (Annexure A/21) keeping in mind the fact that the transfer order of the applicant was set aside by this Tribunal.

*Handwritten signature*

7. Accordingly the Respondent No.3 i.e the Director of Health Services, A&N Islands, Andaman & Nicobar Administration, Port Blair is directed to consider and dispose of the representation of the applicant dated 31.05.2018(Annexure A/21) by passing a well reasoned order keeping in mind the order of this Tribunal passed in O.A.No.351/108/2018(Annexure A/15) whereby the respondents were directed to allow the applicant to continue her services at G.B. Pant Hospital Port Blair till her retirement and as per other relevant rules and regulations governing the field within a period of six weeks from the date of receipt of this order and communicate the result to the applicant forthwith. After such consideration, if the claim of the applicant is found to be genuine, then the respondent authorities shall restore the earned leave of the applicant to her account, if permissible under the rules.



8. It is made clear that I have not gone into the merits of this case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and regulations governing the field.

9. With the aforesaid observations and directions, the O.A. is disposed of at the stage of admission itself.

10. As prayed by Id. counsel for the applicant, a copy of this order along with the paper book be transmitted to Respondent No.3 by the Registry through speed post for which Id. counsel for the applicant shall deposit the cost within one week. A free copy of this order be given to Id. counsel for the respondents.

  
( A. K. Patnaik )  
Judicial Member