

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

OA/021/119/2018

**Reserved on: 02.04.2019
Order pronounced on: 04.04.2019**

Between:

K. Maheswar,
S/o. K.L.N. Reddy,
Aged about 61 years,
Occ: Retd. SS/SC,
O/o DRM/P/HYB (Group C),
R/o. Flat No.101, Crescent Krishna Elite Apts.,
Defence Colony, Sainikpuri,
Hyderabad – 94.

...Applicant

And

1. UOI rep. by General Manager,
South Central Railway,
Rail Nilayam, 3rd floor,
Secunderabad.
2. Sr. Divisional Personnel Officer,
S.C. Railway, Hyderabad Division,
Secunderabad.

...Respondents

Counsel for the Applicant ... Mr. KSP Reddy

Counsel for the Respondents ... Mr. M. Brahma Reddy, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar

... Member (Admn.)

ORDER

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

2. The OA is filed for granting leave encashment of 280 days instead of 300 days.

3. Applicant retired as Station Master from the respondents organisation on 31.3.2017. Applicant was not informed of the leave available to him till his superannuation. On representing it was informed that after due auditing, 280 days of LAP and one day LHAP was the leave available in his leave account. The applicant found certain irregularities in maintaining the leave account and without rectifying the same denying the leave encashment for 300 days has led to the filing of the OA.

4. The contentions of the applicant are that LHAP of 40 days due to be credited for 2001 and 2002 was not credited. Similarly leave beyond 300 days for the period 2009 to 2011 was not considered. Besides, 5 days was wrongly debited in excess for the period 18.7.2017 to 24.7.2017.

5. Respondents intimate that the applicant did not request to show his service register and if asked it would have been shown as provided in the rules. Respondents have admitted that certain errors took place in the leave account and they have been corrected. Leave account has been audited and that the leave balance is correct.

6. Applicant has filed a rejoinder giving details in Para 4 where the errors have occurred from 1986 to 2017 in the LHAP account and even in regard to LAP as on

1.7.2003. Applicant claims that though he has requested to show the service register it was not shown by the respondents. Moreover, for the period 1.1.2009 to 1.12.2010 during which he has gone on leave he has requested for LAP to be deducted instead 38 days of LHAP was deducted. If this request was considered he would have had a little over 300 days at his credit for encashment. Respondents deny this assertion by filing the additional reply statement.

7. Heard both the counsel and perused the documents as well as the material papers submitted.

8. It is evident that there are errors in the maintenance of the leave record by the respondents. Even in the additional reply filed to the rejoinder of the applicant the balance in LAP is shown as 260 days whereas they have paid leave salary for 280 days. The figures furnished in the reply statement and the additional reply statement being incongruent is surprising. This only hints at the lackadaisical manner in which the leave account has been maintained by the respondents. It is the responsibility of the respondents as a model employer to intimate the employees about the leave available to them. Applicant has contended in the rejoinder that he was not shown the service register even when he approached the respondents. This fact has not been denied by the respondents in their additional reply. Had the applicant been allowed to see the service register he would have regulated his leave so that he would have had a leave balance of 300 days at his credit. For instance the sick leave for the period of 38 days, would have been requested to be debited from LAP instead of LHAP since he was accumulating leave for more than 300 days in LAP. Denying the same and debiting the leave at the back of the applicant adversely affecting his

interests is not only unfair but not expected from a model employer. Even the way respondents maintained the leave account with many discrepancies does not create the requisite confidence as is required from a respectful public institution like the Railways. The action of the respondents is arbitrary and against the legal dictate of being a model employer as per supreme court observation [In Secretary, State Of Karnataka And vs. Umadevi And Others](#) [(2006)4SCC1], which is reproduced hereunder:

“53. We have stated the role of the State as a **model employer** with the fond hope that in future a deliberate disregard is not taken recourse to and deviancy of such magnitude is not adopted to frustrate the claims of the employees. It should always be borne in mind that legitimate aspirations of the employees are not guillotined and a situation is not created where hopes end in despair. Hope for everyone is gloriously precious and a **model employer** should not convert it to be deceitful and treacherous by playing a game of chess with their seniority. A sense of calm sensibility and concerned sincerity should be reflected in every step. An atmosphere of trust has to prevail and when the employees are absolutely sure that their trust shall not be betrayed and they shall be treated with dignified fairness then only the concept of good governance can be concretized. We say no more.”

Therefore in all fairness the balance of 19 and half days has to be allowed based on the aforesaid facts. Hence the respondents are directed to consider as under:

- i) To pay the leave encashment for the balance of 19 and half days to the applicant within a period of 60 days from the date receipt of this order.
- ii) No order as to costs.

9. With the above directions the OA is allowed.

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

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