

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

Original Application No. 20/419/2017

**Reserved on: 07.03.2019
Pronounced on: 11.03.2019**

Between:

S. Guruswamy, S/o. S. Chinna Chodappa,
Aged 61 years, Retd. Senior Technician,
O/o. The Senior Divisional Mechanical Engineer (Diesel),
South Central Railway, Guntakal Division, Gooty,
R/o. D. No. 1/186, B.C. Colony, Basinepalle (Vill & Post),
Gooty – 515 402.

... Applicant

And

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

... Respondents

Counsel for the Applicant ... Mr. K.R.K.V. Prasad

Counsel for the Respondents ... Mrs. Vijaya Sagi, SC for Rlys

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 challenging the reduction of Leave Average Pay (LAP)/LHAP (Leave Half Average Pay).
3. Applicant retired from the respondents organisation as senior Technician (Diesel) on 30.9.2016. Applicant represented on 14.5.2016 about reduction of LAP at his credit. The second respondent vide lr dt 20.7.2016 informed that LAP

to the extent of 110 days which was credited excess to the applicant's account was corrected. Applicant has represented again on 10.8.2016 and to the Pension Adalat. In response, applicant was informed vide Impugned order dt 6.12.2016 that LAP to the extent of 185 days was sanctioned at the time of retirement and after deducting 51 days excess credited to his account, the leave salary for 134 days was paid to the extent of Rs.2,76,467. Aggrieved over the same the OA has been filed.

4. The contentions of the applicant are that LAP/LHAP as on 1.8.2008 were 200 days and 94 days respectively. Maintenance of the leave account was correct up to 2010. However, a correction pertaining to the leave account was done on 22.7.2010. The reduction of 134 days unilaterally from the leave account is illegal. On representing, 2nd respondent informed that an excess credit of 110 days was corrected and the balance of LAP/LHAP was shown as 184/10 days respectively. Applicant obtained the leave account through RTI and contested the entry of showing 74 days of LAP as excess on 1.1.1984. It was clear that the respondents did not maintain the leave account properly after 2010 since they have taken different stands on different occasions. Despite pointing out irregular deduction, respondents have not taken cognizance and caused a financial loss of nearly Rs.2,33,000/- towards 134 days leave salary.

5. Respondents confirm that the LAP/LHAP at the credit of the applicant in Aug 2008 was 200/94 days respectively. During inspection of the Finance department it was noticed that there were arithmetical errors committed in maintaining the leave account. They found LAP of 86 days and LHAP of 56 days were credited excess in 1984. Accordingly 86 days of LAP was corrected but not the LHAP of 56 days. Accordingly, as on 22.7.2010 the LAP after adding 15 days credit as on 1.7.2010, was shown as 149 days and LHAP as 60 days. At

the time of retirement, the leave account when checked the error of not correcting the excess credit of 56 days granted in 1984 towards LHAP was detected and the leave account corrected by arriving at an excess of 51 days of leave credit at the time of retirement. Based on the corrections made, the applicant was also accordingly informed vide lr. dt 6.12.2016. The leave account is posted after receiving muster particulars from the applicant's working unit. The leave salary is certified by the Finance dept. on the eve of retirement of the employee and thereafter the leave encashment is permitted.

6. Heard both the counsel and perused documents plus the material papers submitted.

7(I) The dispute is in regard to deduction of leave account unilaterally by the respondents. The learned counsel for the respondents filed the original leave record of the applicant. As seen from the original record, the LAP/LHAP of 23/40 days was wrongly shown as 109/96 by committing the errors of double posting and totalling mistakes in 1984. In 2010, LAP was corrected by deducting the excess credit plus adding the credit for 2010 and shown as 149 but did not rectify the excess of 56 days of LHAP. At the time of retirement as on 30.9.2016, LAP at credit as per original record was shown as 185 and the LHAP as 5 days. Therefore, the total leave at the time of retirement was $185 + 5 = 190$. From this the LHAP excess credit of 56 days was removed which works out to 134 days. Leave salary was accordingly paid for 135 days to the applicant. The dispute arose because of the double entry and the totalling mistakes. This could have been avoided if the applicant was informed of the corrections in time so that the grievance would not have emerged. If the respondents do not have a system to intimate LAP/LHAP to the employees they can contemplate developing a software which triggers an automatic SMS / email message

whenever the leave account of the employees is updated. This would save precious time of the respondents and minimise employee grievances plus eliminate unnecessary litigation. Coming back to the core issue as is seen from the original records respondents have allowed eligible leave salary by rectifying the double entries and totalling mistakes. Such corrections are within the competence of the respondents. As leave LAP/LHAP can be en-cashed the respondents only after taking a certificate from the finance department about the correctness of the entries allow the encashment. Respondents followed procedure prescribed and they cannot be faulted. Mathematical errors are natural where ever figure work is involved and therefore the prescription of checks and counter checks are prescribed so that errors committed are detected and rectified as was done in the present case. The applicant stated that on different occasions different versions were presented. The mathematical errors pointed out were bonafide mistakes which the respondents rectified them. The applicant expecting benefits from the errors committed by the respondents is unfair to say the least. Hon'ble Supreme Court has observed that bonafide mistake can be corrected in *VSNL v. Ajit Kumar Kar*, (2008) 11 SCC 591, as under:

46. It is well settled that a bona fide mistake does not confer any right on any party and it can be corrected.

II. From the facts discussed above, there is no merit in the case and hence the OA is dismissed, with no order as to costs.

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

Dated, the 11th day of March, 2019

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