

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/21/586/2015

Dated: 12/04/2019

Between

Kallam Siva Prabhakara Reddy,
S/o (Late) K. Nagi Reddy, aged about 61 years,
Occ: Retd. Chief Law Assistant/
SC Rly/ Secunderabad,
R/o.H.No.80, Shank Colony,
Kapra, R.R. (Dt),
Hyderabad ò 500 062.

... Applicant

AND

1. Union of India rep. by
General Manager,
South Central Railway,
Rail Nilayam, III floor,
Secunderabad ò 500 071.
2. Chief Personnel Officer,
S.C. Rly, Rail Nilayam,
Secunderabad ò 500 071.

... Respondents

Counsel for the Applicant : Mr. K. Siva Prabhakara Reddy(P-I-P)
Counsel for the Respondents : Mr.V.V.N. Narasimham, SC for Rlys.

CORAM :

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mrs. Naini Jayaseelan, Admn. Member***

ORAL ORDER(Per Hon^{ble} Mr. Justice L. Narasimha Reddy, Chairman)

The applicant retired from the service of the South Central Railway as Chief Law Assistant on 31.07.2013. He was paid all the retirement benefits including the leave salary account. Through a communication dated 4.3.2015, the respondents informed the applicant that he is entitled for leave encashment of Rs.3,37,203/-, equivalent to 207 days. This included 121 days of Leave on Average Pay (LAP) and 117 days of Leave on Half Average Pay (LHAP). The same is challenged in this O.A. The applicant contends that the respondents have unilaterally decided the leave salary account that too contrary to the material on record. According to him, he is entitled to be paid the amount for the full period of 300 days and there was no justification for the respondents in deducting from the same.

2. The respondents opposed the O.A. by filing a reply. They made reference to various spells of the L.A.P said to have been availed by the applicant and the errors which are said to have crept into the calculations. They stated that the facts and figures furnished are correct.

3. The O.A. was dismissed through an order dated 24.03.2016. Feeling aggrieved by the same, the applicant filed Writ Petition No. 11688/2018 before the Hon^{ble} High Court. The respondents filed a separate counter affidavit in the Writ Petition. Apart from mentioning some developments that have taken place, during the pendency of the Writ Petition, they stated that the applicant was paid Rs.94,753/-, equivalent to 55 days since he was found to be entitled for 262 days. The High Court took note of a difference

in versions presented by the respondents in the O.A. on the one hand and in the Writ Petition on the other. Through its order dated 27.02.2019, it has set aside the order in the O.A. and remanded the matter for fresh consideration. It was directed that the counter affidavit filed by the respondents shall also be taken into account.

4. We heard the applicant, who argued in person and Sri V.V.N. Narasimham, learned counsel appearing for the respondents in detail.

5. It is not in dispute that an employee of the rank and stature of the applicant is entitled for the leave salary account up to a maximum of 300 days. If any part of it is utilised in service, the same needs to be deducted in accordance with the relevant provisions of law. Initially, the respondent informed the applicant that his entitlement is only 207 days and accordingly payment was also made. The applicant pursued remedy by filing this O.A. In all fairness to the applicant, the respondents have undertaken further verification and despite the further dismissal of the O.A., they made a payment of Rs.94,753/- during the pendency of the Writ Petition. With this, substantial grievance of the applicant has been redressed. The left over period is only few days.

6. Now, the question as to whether the applicant has availed any L.A.P. during the service and if so, for how many days, needs to be examined. For this, the applicant has to make a representation, duly furnishing the relevant facts and presenting his version. The respondents, in turn, shall take the same into account and pass a fresh order. If they entertain any doubt, they

shall seek necessary clarification from the applicant. This exercise shall be undertaken within two months from the date of receipt of this order.

7. The O.A. is accordingly disposed of. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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