

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

Original Application No. 21/143/2018

Date of CAV: 30.01.2019

Date of Pronouncement: 31.01. 2019

Between:

V. Murali Bhaskar, S/o. V. Venkata Rathnam,
Aged 52 years, Occ: Junior Engineer,
Flat No. 202, Sri Sai Nivasam,
H. No. 8-3-169/146, Yousufguda,
Siddharda Nagar, Hyderabad – 500 038.

... Applicant

And

1. The Union of India, Rep. by its Director,
Head IODPD, IODPG/DPPA & WAA,
Department of Space,
Indian Space Research Organization,
National Remote Sensing Centee,
Balanagar, Hyderabad – 500 037.
2. The Head Personnel & General Administration,
Establishment Section,
National Remote Sensing Center,
Balanagar, Hyderabad – 500 037.

... Respondents

Counsel for the Applicant ... Ms. P. Ysasvi

Counsel for the Respondents ... Mr.Sambasiva Rao, Advocate for
Mr. V. Vinod Kumar, Sr. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER

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

2. The applicant has approached this Tribunal to direct the respondents for declaring the period from 01.06.2017 to 29.06.2017 and from 04.07.2017 to 11.08.2017 during which he had to go on leave due to an accident occurred during office hours as duty.

3. Brief facts of the case are that the applicant is working as Junior Engineer in the respondent organization. On 31.05.2017, he fell at the work place and got injured. Consequently, he got himself admitted in Yashoda Hospital, Secunderabad and took treatment. The applicant was on sick leave from 01.06.2017 to 29.06.2017 and from 04.07.2017 to 11.08.2017. The applicant approached the respondents to consider this absence to pay all the allowances due for the said period.

4. The contentions of the applicant are that when he was injured at the office, he tried to inform the Section Head, but she was away. Then, he tried to inform his Group Head, but he too was not available. The Resident Doctor, when contacted, advised him to go to Hospital instead of visiting him and providing first aid. Being helpless, he contacted his friend who helped him in being admitted in Yashoda Hospital. The applicant also contends that the respondents did not arrange a vehicle to take him to the hospital till 15.30 hours. Finally, on medical examination, it was found that his left foot was fractured. He was advised to take bed rest for one month. After one month, the applicant did try to attend the office for two days, but since he could not sit due to the injury, he once again approached the Doctor, who advised him one more month bed rest. The applicant approached the Director, NRSC vide letter dated 28.08.2017 requesting for reimbursement of medical expense since the event occurred in the office. The applicant followed it up by representations dated 04.10.2017, 13.11.2017, but of no avail.

5. The respondents contend that the Respondent No. 1 was away in Shadnagar Officer, but she responded to the call of the applicant by advising him to approach the doctor and assured him further support. The 2nd respondent was in an important official meeting and therefore, he was not available. The averment of the applicant that there was delay in providing transport is incorrect since a dedicated emergency vehicle is always detained for taking care of unforeseen incidents. The doctor's advice as per the medical records is that the applicant should take up official activities which are light in nature. The activities being undertaken by the applicant are indeed light, is what the respondents claim. The respondents also contended that the applicant submitted a medical certificate dated 28.06.2017, which certified that the applicant is fit to resume duty on 30.06.2017. They contended that a medical certificate is not issued indicating a future date of fitness. The respondents also claim that the applicant joined duty on 30.06.2017 in order to ensure that the increment due on 1st July does not get postponed. Again, on the pretext of injury, he went on leave. The respondents have Contributory Health Service Scheme providing medical treatment through empanelled hospitals on credit basis. Accordingly, the applicant got admitted in Yashoda Hospital and got reimbursement towards his treatment. Thus, there are no medical dues to be paid to the applicant. The respondents further contend that, as per Rule 45 of CCS (Leave) Rules, 1972, the competent authority shall grant special disability leave to a Government servant for accidental injury accidentally occurred in, or in consequence of, the due performance of his official duties or in consequence of his official position. The respondents claim that the applicant did not get injured while performing official duty. The incident occurred at the entrance of the work place but not during the performance of the official duty. CCS (Leave) Rules do provide for

conversion of one kind of leave into other at a later date, but can be done only at the discretion of the competent authority. Therefore, such a conversion cannot be claimed as a matter of right. The applicant did avail half pay leave from 01.06.2017 to 29.06.2017 and from 04.07.2017 to 11.08.2017 and after availing leave, he is now requesting the same to be converted as disability leave, which the respondents state is only an afterthought. The applicant simply forwarded a letter dated 03.07.2017 stating that he has to take rest without mentioning the duration of absence and also not submitting any medical certificate to that extent. This indeed warrants disciplinary action against the applicant on grounds of unauthorised absence. Only on 12.08.2017, the medical certificate was furnished when he joined the office. The Head of Office, on humanitarian grounds, advised the applicant to get HPL converted into commuted leave so as to enable the applicant to get full pay for the said period. Instead of doing so, the applicant has filed the present OA on grounds which are unacceptable. Further, the applicant was exempted from duties at Shadnagar for three months due to his health condition. However, even after three months, he has not reported at Shadnagar. Based on the facts stated, there is no merit in the OA and hence, it has to be dismissed. The applicant has also filed rejoinder to the reply filed by the respondents stating that the medical record only indicates that he was healing from fracture and till it was not completely healed, he was advised not to put weight on the ankle. The applicant also states that doctor is competent to issue a medical certificate two days in advance keeping the health condition in view. The certificate also mentions that he can resume duties which are light in nature. Besides, as per the Workmen's Compensation Act, the employer is liable to pay compensation in accordance with the provisions therein.

6. Heard both the counsel and perused the documents on record. We have gone through the reply, Additional reply of the respondents and the rejoinder filed by the applicant as well as other material papers submitted by both the parties.

7(i) It is not in dispute that the applicant was injured at the office premises. It is also on record that he was treated for leg injury in the hospital. The applicant was granted Half Pay Leave by the respondents. There being a provision for conversion of leave to one another kind of leave, the applicant made a request to grant disability leave. The respondents did not consider the same because they have discretion and it cannot be claimed as a matter of right. The Head of Office on humanitarian grounds advised the applicant to seek conversion of HPL into commuted leave so that full pay and allowances can be granted to him. Instead of doing so, he filed the OA, which, as per the respondents is not justified. Learned counsel for the applicant cited Section 3 of The Workmen's Compensation Act, 1923, which reads as under, to seek the conversion of leave:

“Employer's liability for compensation:

(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter.”

(ii) We have gone through the other averments made by the applicant and the respondents as well. In the Tribunal's considered view, they are not relevant to the issue in question. The only relevant issue is that the applicant was injured at the work place and whether he is liable for compensation under the Workmen's Compensation Act. The Workmen's Compensation Act is applicable only to the workers engaged by the respondents through contractors/

service providers for carrying out the outsourced processes/ operations vide OM No.E.11020/7/2010-Sec.IV dt. 02.12.2011 issued by the Department of Space. Hence, the applicant does not come under the ambit of the said Act. More so, the applicant being a Group A non-gazetted regular officer. However, it is noticed that the competent authority has the discretion to allow conversion of leave as per CCS (Leave) Rules, 1972. The facts of the case do indicate that the applicant has been injured at the workplace and therefore, he is seeking disability leave. When the provision exists, there would be instances when the respondents would have exercised the discretion allowing the requests of other officials in the past.

(iii) Therefore, keeping the above in view, the OA is disposed of by directing the respondents that in case they have extended the benefit to others in similar circumstances, the same be extended to the applicant. The time calendared to implement this order is two months from the date of receipt of this order. The OA is accordingly disposed. There shall be no order as to costs.

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

Dated, the 31st day of January, 2019

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