

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.809/2018

Reserved On:09.07.2019

Pronounced on:12.07.2019

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

Shri Shri Bhagwan @ Shri Bhagwan Sharma
S/o Sh. Shiv Charan Sharma,
R/o 82-A, Jhang Co-operative Group Housing Society,
Plot No.40, Sector-13, Rohini,
Delhi-110085.

...Applicant

(By Advocate : Shri Manoj Ranjan Sinha)

Versus

1. Govt. of NCT of Delhi
Through Director (Education)
Directorate of Education,
Old Secretariat, Govt. of NCT of Delhi
Delhi.
2. The Vice-Principal
Govt. Boys Senior Secondary School No.II
Adarsh Nagar, Delhi.

...Respondents

(By Advocate: Shri Rohit Bhagat for Shri Saurabh Chadda)

O R D E R

Applicant had earlier filed O.A. 2940/2017 before this Tribunal claiming the very same reliefs, which he has claimed in the present OA. The said OA was disposed of with the following directions:-

“The applicant retired from the post of Trained Graduate Teacher (TGT) Sanskrit on 30.04.2017 from Govt. Boys Senior Secondary School No. II, Adarsh Nagar, Delhi which comes under Directorate of Education, Government of NCT of Delhi (GNCTD). The applicant was re-employed vide order dated 01.05.2017 (Annexure A-2) in terms of the Notification dated 22.03.2007 mentioned therein. His grievance is that leave

encashment benefits have not been fully granted to him. He, however, states that he has been fully paid GPF and is also getting regular pension. His further grievance is that he was re-employed w.e.f. 01.05.2017, but he has not been paid salary so far. He has submitted the Annexure A-4 representation dated 05.07.2017 which has not yet been decided by the respondents. Learned counsel for the applicant submits that the applicant would be satisfied, at this stage, if a time bound direction is issued to the respondents to decide his representation dated 05.07.2017.

2. Having regard to the submissions made and without going into the merits of the case, the OA is disposed of at the admission stage itself, with a direction to the respondents to decide the Annexure A-4 representation dated 05.07.2017 of the applicant within a period of two months from the date of receipt of a copy of this order by passing a reasoned and speaking order. The applicant, however, will have the liberty to take appropriate recourse under law in case he remains aggrieved of such order”.

2. Thereafter, applicant filed CP No.807/2017 in O.A. No.2940/2017 claiming that respondents have not complied with the orders passed by the Tribunal in OA No.2940/2017. When the CP was heard on 19.01.2018, the Bench observed that the only direction given in the OA was to dispose of the representation of the applicant dated 05.07.2017 which was duly complied with by passing a speaking order dated 17.01.2018 (Annexure A-5). Hence, the CP was closed.

3. The present OA has been filed by the applicant claiming the same very reliefs, which he had raised in the earlier OA. In the present OA, although he has annexed the speaking

order passed by the respondents on 17.01.2018 (Annexure A-5) but has not chosen to challenge the same. All the points raised by him with regard to various kinds of leaves, payments etc. have been explained in the aforesaid speaking order dated 17.01.2018 (Annexure A-5).

4. Further, the applicant has denied all the points raised in the speaking order and has prayed for allowing the OA with interest @ 24% and asks for another inquiry to be made on his claims.

5. The respondents in their reply have reiterated all the same very points as mentioned by the respondents in the speaking order. They have, however, explained that the leave account of the applicant was tampered and manipulated; 22 days EL were entered without prior approval of the competent authority; 7 days EL was entered in duplicated i.e. twice; and Earned Leaves were entered extra in lieu of Seminar held from 19.05.2008 to 31.05.2008. However, as per rule, 6 days EL should have been entered in his leave account but 7 days EL had been entered. They have thus prayed that all the leaves and payments have been made in time and the details are as under:-

Sl. No.	Year and Month of EL/ML	Kind of Leave	No. of Leave	Amount paid
1.	208 EL + 92 days			Rs.6,85,936
2.	November 2013	Medical Leave	04	
3.	January, 2017	Medical Leave	01	
4.	February, 2017	Medical Leave	08	

5.	March, 2017	Medical Leave	08 + 6 Spl Leave	
6.	April, 2017	Medical Leave	13	
		Total	34 Medical Leave + 6 Spl. E. Leave	
The amounts received by him on account of retirement				
7.	Gratuity	Rs.12,96,256	30.04.2017	
8.	Commutation	Rs.15,31,951	30.04.2017	
9.	GPF	Rs.14,50,719	30.04.2019	
10.	EL/HPL	Rs.5,80,615	21.06.2017	
11.	CGEHS	Rs.24,778	10.07.2017	

6. The respondents have further stated in the aforesaid order that no application has been submitted by the applicant within the stipulated period of one month of availing of leave even after the expiry of one month. The applicant has availed 34 days Medical Leave as per rule, 68 HPL was deducted from his account and thus only 74 HPL was the remaining balance in the account of the applicant. Thus, applicant was entitled for leave encashment of 178 EL + 74 HPL and as such, the earlier sanction of encashment of leave for 208 EL + 92 HPL for Rs.6,85,936/- was cancelled and fresh sanction for 178 EL + 74 HPL for Rs.5,80,615/- was accorded. If the school authorities had not corrected the leave account, excess payment of Rs.1,05,321/- could not have been made from the exchequer to the applicant. The applicant was further paid salary amounting to Rs.1,68,876/- for the months of May to July, 2017 and Rs.58,828/- for the month of August, 2017. They have thus prayed that the OA be dismissed.

7. Heard Shri Manoj Rajan, the learned counsel for the applicant and Shri Rohit Bhagat for Shri Saurabh Chadda, the learned counsel for the respondents and perused the pleadings on record.

8. First of all, I find that the respondents have considered all the pleas raised by the applicant in his earlier OA and passed the speaking order dated 17.01.2018 (Annexure A-5) explaining the facts in detail. Moreover, I may mention that the present OA is verbatim with the earlier OA filed by the applicant and hence the same is hit by the principle of *res judicata*.

9. In the back drop of the aforesaid facts, the O.A. is liable to be dismissed on the grounds of *res judicata* as well as on merits as the applicant has not chosen to challenge the speaking order dated 17.09.2018 which was passed in compliance of the order passed by this Tribunal in OA No.2940/2017 and has not raised any new ground(s) in this OA. No order as to costs.

(NITA CHOWDHURY)
MEMBER (A)

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