

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/21/117/2018

Dated: 16/07/2019

Between

B. Gnana Kumar,
S/o. Danaiah, aged 60 years,
Occ: Dy. Director (Retd.) ESI Corporation,
Adarshnagar, Hyderabad
R/o. LIG 235 KPHB Colony,
Road No.2, Hyderabad - 35.

... Applicant

AND

1. Union of India rep. by its
Principal Secretary,
Ministry of Employment & Training,
Govt. of India, New Delhi.
2. Regional Director,
Employees' State Insurance Corporation,
Regional Office, 5-9-23,
Hill Fort Road, Adarsh Nagar,
Hyderabad - 500 063.
3. The Principal Secretary,
Dept. of Personnel & Training,
Min. of Home Affairs,
Govt. of India, New Delhi.
4. The Medical Superintendent,
ESI Medical College, Hospital,
Sanath Nagar,
Hyderabad - 500 038.
5. Deputy Director (Finance),
Employees' State Insurance Corporation,
Regional Office, 5-9-23, Hill Fort Road,
Adarsh Nagar, Hyderabad - 500 063.
6. Shri Utpal Sarkar,
Dy. Director (Finance),

Employees State Insurance Corporation,
Regional Office: Telangana,
5-9-23, Hill Fort Road, Adarsh Nagar,
Hyderabad - 500 063.

... Respondents

Counsel for the Applicant : Mr. P.S. Rama Chandra Murthy
Counsel for the Respondents : Mr. N. Srinivasa Rao, SC for ESIC

CORAM :

Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

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

2. The O.A. has been filed in regard to encashment of leave salary.
3. The brief facts of the case are that the applicant retired from the respondent organization on 31.5.2017 on superannuation. He was granted leave encashment for 91 days. The claim of the applicant is that he is eligible for 300 days. On making representation, the respondents closed his request made online, by consulting the legal officials of the respondent organization at Hyderabad, by stating that the applicant is responsible for not updating the leave charts. Therefore, making a claim after retirement is not tenable. Aggrieved over the same, the present O.A. has been filed.
4. The contentions of the applicant are that he is eligible for 300 days of leave as on the date of superannuation. The leave record has to be maintained by the respondent organization. The respondents cannot shy away from the responsibility of maintaining leave records and other personal records of the employees.

5. The respondents per contra stated that the applicant was paid 91 days of leave salary provisionally which was available in the leave account of the applicant as on the date of retirement. Subsequently, he was paid for another 161 days, after obtaining relevant details. Thus, he was paid leave encashment for 252 days altogether. As per rule, when the credit of E.L. at the start of any half year, results in the total accumulation of EL being more than 300 days, the 15 days EL for that half year shall be kept separately and set off against the leave availed during that half year. Any portion of this separately credited leave not availed within the half year, shall be accumulated with the previous EL to the credit of EL account, provided the total accumulated EL does not exceed 300 days. Such procedure may be restored to in cases where the earned leave at the credit of the employee on the last day of December or June is 300 days or less but more than 285 days.

The respondents in order not to inconvenience the applicant, have certified that the leave at credit is 315 days. After deducting 21 days of leave availed by the applicant, the leave balance comes to 294 days. Based on the same, applicant has sought 294 days encashment of leave. However, for finalizing his leave encashment, records were called for from different offices. The leave record of the applicant in ESI Medical College Hospital was not furnished but instead, a letter signed by the applicant has been received, making it evident that Service Book/ Leave Account of the applicant were lost. The applicant was in fact the custodian of the Service Book/ Leave Account in the capacity of Deputy Director (Fin), ESIC Medical College Hospital, Sanathnagar. It was the fault of the applicant in

not trying to trace out the said record. Hence, there is delay in settling his claim.

6. Heard both the counsel and perused the pleadings on record.
7. The claim of the applicant for leave encashment to the extent he is eligible, is being examined by the respondents. However, since the applicant worked in different offices and there being no Service Book available, the respondents informed that they are trying to re-construct the record. The respondents have also pointed out that in one office where the applicant himself is the custodian of leave record, the record was lost. They have pointed out that if the applicant had tried to trace the record, it would have facilitated early settlement. Nevertheless, the respondents have admitted in the reply statement that they are trying to locate the relevant records from different offices and thereupon the applicant will be allowed to encash the leave that is available at the time of his retirement. The fair admission of the respondents is appreciated. However, it needs to be done within a specific period. Therefore, the respondents are directed to consider obtaining the records and settle the claim of leave encashment of the applicant, within six months from the date of receipt of this order.

With the above direction, the O.A. is allowed. There shall be no order as to costs.

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

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