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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1393 of 2003

New Delhi, this the 28th day of November, 2003

HON'BLE MR.KULDIP SINGH.MEMBER(JUDL)

R.L. Prasad
S/o Late Antu Prasad
aged 61 years
R/o B-137 Kendriya Vihar,
Sector-51,
Noida-201307.

...Applicant

By Advocate: In person.

Versus

1. Union of India through
Secretary to the Ministry of Defence,
South Block,
New Delhi.
2. Commander Works Engineers (Hills)
Dehradun,
Dehradun Cantt.-248003.
3. Chief Record Officer (Officers),
Army Headquarter,
Engineer in Chief's Branch
C/o Chief Engineer,
Delhi Zone,
Delhi Cantt-110 010. ...Respondents

By Advocate: Shri R.N. Singh.

O R D E R

By Hon'ble Mr.Kuldip Singh,Member(Judl)

The applicant has filed this OA seeking a direction to the respondents to pay to the applicant leave encashment for the balance period of 30 days Earned Leave along with interest @ 18% w.e.f 1.7.2002 till the date of payment allowing 2 months grace period w.e.f. 1.7.2002 to 31.8.2002.

2. It is further stated that respondents may be further directed to pay interest @ 18% for the delay in payment of encashment of 270 days Earned Leave w.e.f. 1.7.2002 to 31.1.2003 allowing two months grace period

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from 1.7.2002 to 31.8.2002.

3. The facts in brief are that the applicant who was working as a Senior Barrack Stores Officers in the office of respondent No.2 retired on superannuation on 30.6.2002. The applicant further submits that in the leave account maintained by the respondents in respect of applicant, there were 300 days Earned Leave and 415 days Half Pay Leave on the last day of his retirement and as per instructions the applicant is entitled to encashment of unutilised 300 days of Earned Leave. The applicant also submitted a representation for arranging payment of the leave encashment w.e.f. 1.7.2002 for delay in payment. However, on 28.1.2003 the applicant was allowed encashment of 270 days leave on the basis of the record maintained by Chief Record Officer (Officers) and thus his representation for 30 days Earned Leave had been rejected so it is submitted that leave encashment for 30 days had not been paid to the applicant and as such he is entitled to interest thereon.

4. The respondents are contesting the OA. The respondents in their reply pleaded that applicant was rightly allowed encashment of 270 days of Earned Leave and not for 300 days as claimed by the applicant.

5. It is specifically stated that on the date of retirement the total leave encashable standing at his credit was 270 days and not 300 days. It is further stated that on verification of record after retirement it was found that 56 days Earned Leave as per details given

below were not found debited into the leave account maintained by the respondents although the leave was availed by the applicant:-

| | |
|----------------------|-------------|
| 19.7.84 to 21.7.84 | ... 3 days |
| 9.11.84 to 12.11.84 | ... 4 days |
| 17.6.91 to 5.7.91 | ... 19 days |
| 28.6.93 to 30.6.93 | ... 3 days |
| 4.5.94 | ... 1 day |
| 16.5.94 to 4.6.94 | ... 20 days |
| 26.12.94 to 31.12.94 |6 days |

6. Rejoinder to this was also filed wherein the applicant has submitted that respondents were directed to file complete leave record of the applicant have been issued and respondents have given certified copies of valid leave accounts with supporting documents and the entries in the leave account cannot be verified by the applicant without aforesaid documents, which have numerous over-writings, cuttings, scoring maintained by the respondents, contrary to leave rules so it is submitted that there were 30 days more leave lying into the credit of the applicant.

7. I have heard the learned counsel for the parties and gone through the record.

8. It will be pertinent to mention that when the case was taken up for hearing on 20.10.2003 the respondents were directed to place on record certified copies of the leave account. Accordingly, the respondents have placed the same on record and the respondents were also directed to make available the

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original record of the applicant at the time of final arguments accordingly the respondents have brought the complete leave record maintained by the respondents. On seeing the record the applicant who was arguing in person submitted that the record has not been maintained by the authorised person nor the same been signed by the head of the Department who under the leave rules is required to maintain the record so this record should not be taken into account.

9. Besides that he has also pointed out various cuttings on the record and submitted that the same has been recorded only to prove that on the date of superannuation of the applicant 300 days Earned Leave were lying to the credit of the applicant.

10. He further submitted that cuttings and overwritings made in this regard go to show that this has been done mala fidely to show less number of days into the credit of the applicant.

11. I have gone through the original record of the applicant.

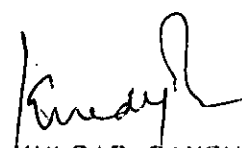
12. The cuttings referred to by the applicant in the records produced after the orders have been passed by only go to show that the respondent have explained that the EL record has been verified by the auditors and this cutting and overwriting have been done only by the auditors in order to verify the claim but the original record show that only 270 days were left to the credit of the applicant.

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13. The perusal of the record as maintained in Form No.11 which is filled up as per Rule 15 which provides a form of leave account to be maintained in respect of the applicant goes to show that at the time of retirement the applicant had only to his credit leave of 270 days for which he has been rightly paid so the applicant is not entitled for further encashment of 30 days of leave for which he claims that he has not been paid.

14. Further as regards interest on late payment of leave encashment amount is concerned it is an admitted case of the department that payment in respect of leave encashment has been released with delay though the counsel for the respondents tried to explain the delay but the explanation put forward by the respondents is not convincing because the applicant was entitled to leave encashment immediately on his superannuation and in this case the applicant has allowed 2 months period as a grace period and even after that period he was not paid so I hold that the applicant is entitled to interest for date release of leave encashment.

15. Accordingly the OA is disposed of with a direction to the respondents to pay 9% interest to the applicant on the late payments of leave encashment amount w.e.f. two months after superannuation till the amount was actually paid. Interest be paid to applicant within a period of 2 months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER (JUDL.)