

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 607 of 2022 (S.B.)

Shri Hira S/o Chindhabaji Dhakate,
Aged 61 years, Occupation Retired,
R/o Flat No.G-2, Jairam Tower, Near Revtinagar,
Besa, Nagpur.

Applicant.

Versus

- 1] The Secretary, (CADA),
Water Resources Department,
Mantralaya, Mumbai – 32
- 2] The Chief Engineer,
Water Resources Department,
Sinchan Seva Bhavan, Civil Lines, Nagpur – 440 001.
- 3] The Superintending Engineer,
Chandrapur Irrigation Project Circle, Railway Station Road,
Jalnagar, Chandrapur - 442401.
- 4] The Executive Engineer,
Chandrapur Medium Project Division No.1,
Civil Lines, Nagpur Road, Chandrapur-442401.

Respondents.

S/Shri A.S. & B.A. Bhendarkar, Advocates for the applicant.
Shri A.P. Potnis, learned P.O. for respondent nos.1 to 3.
Smt. U. Patil and K.A. Patil, Advs. for respondent no.4.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 06/12/2023.

JUDGMENT

Heard Shri A.S. Bhendarkar, learned counsel for the applicant, Shri A.P. Potnis, learned P.O. for respondent nos.1 to 3 and Smt. U.A. Patil, learned counsel for respondent no.4.

2. The case of the applicant in short is as under –

The applicant was working as a Sectional Engineer. The applicant retired on 31/05/2019 on superannuation. The applicant was paid leave encashment equivalent amount of Rs.10,00,326/- after 9 months of his retirement. Therefore, the applicant approached to this Tribunal for grant of interest on leave encashment.

3. The respondent nos. 3 and 4 filed reply. It is submitted that the applicant was absent on the ground that his wife was on sick. The applicant applied for medical leave on the ground of sickness of his wife. It was not permissible therefore he was directed to submit the application for grant of earned leave from 30/11/2018 to 29/12/2018. Along with the O.A., the letter dated 11/01/2021 is filed on record.

4. The Id. counsel for applicant has pointed out the G.R. dated 20/06/1996. The learned counsel for applicant has submitted that as per this G.R. the respondents should have granted encashment of leave within one month from the date of retirement.

5. The Id. counsel for respondent no.4 pointed out the letter filed by the applicant dated 11/01/2021 and submitted that there is no delay on the part of the respondents. The applicant himself was responsible for delay for payment of encashment of leave and therefore he is not entitled for interest.

6. There is no dispute that as per the provisions of the Maharashtra Civil Services (Pension) Rules, 1982, the interest is to be granted if the employee is not at fault, therefore, this Tribunal has to see whether the respondents were at fault for not paying the encashment of leave within time as per the G.R. dated 20/06/1996. The Clause (1) of the said G.R. is reproduced as below –

“(१) शिल्लक अर्जित / अर्धवेतनी रजेच्या संबंधातील रजा वेतनाच्या सममूल्य रोख रकमेच्या प्रदानासाठी झालेला विलंब प्रशासकीय कारणास्तव / प्रशासनिक चुकीमुळे किंवा संबंधीत कर्मचा-यांच्या नियंत्रणाबाहेरील कारणांमुळे झालेला आहे असे स्पष्टपणे प्रस्थापित होत असेल अशा प्रकरणी विलंबाच्या कालावधीसाठी व्याज देण्यात येईल.”

7. The letter filed along with the O.A. dated 11/01/2021 clearly shows that the applicant was absent from 30/11/2018 to 29/12/2018. The applicant had applied for medical leave. In fact, he was not sick. The wife of applicant was sick and on that ground the applicant applied for medical leave. It was not permissible and therefore the applicant was directed to submit application for grant of earned leave. The applicant had given application for grant of medical leave on 20/09/2019. Thereafter, his service book was submitted on 17/12/2019. On 03/01/2020 leave was granted. Thereafter on 18/01/2020 concerned Clerk was sent to the Treasury Office along with the copy of order. Thereafter on 03/02/2020 the bill was submitted in the Treasury Office. It was again submitted on 16/03/2020 as per the direction of Treasury Officer. On 19/03/2020 the

bill was sanctioned and on 30/03/2020 the encashment leave was paid to the applicant.

8. Though the applicant was retired on 31/05/2019, he had not submitted application for grant of earned leave. He had wrongly submitted application for grant of medical leave. In fact, he was not sick. His wife was sick and thereafter he was directed to submit application for grant of earned leave. The applicant himself was at fault by not submitting the application properly. Instead of submitting application for grant of earned leave, he has submitted application for grant of medical leave. He was well aware that he himself was not sick, then it was not permitted for him to get medical leave on the ground of sickness of his wife. The letter dated 11/01/2021 filed along with the O.A. itself is very clear. This letter shows that the applicant himself was at fault and therefore he cannot claim interest as prayed. Therefore, the following order is passed –

ORDER

(i) The O.A. is dismissed with no order as to costs.

Dated :- 06/12/2023.

**(Justice M.G. Giratkar)
Vice Chairman.**

*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/12/2023.