

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/854/2021

HYDERABAD, this the 14th day of March, 2022



Hon'ble Mr. Ashish Kalia, Judl. Member

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

Malle Adinarayana, S/o. Late Malle Basavaiah,
aged about 60 years, occ: Senior Stores Officer
Grade I (Retd), DRDL, Kanchan Bagh, Hyderabad
R/o. Flat No.E609, T.N.R. Sulakshana,
Laxminarasimhapuram Colony, Hastinapuram,
Hyderabad - 500 079.

.... Applicant

(By Advocate: Sri G. Raman Goud)

Vs.

1) The Union of India,
Ministry of Defence,
Rep. by its Secretary, South Block,
New Delhi - 110 001

2) The Secretary (Defence R&D),
Defence Research & Development Organization (DRDO),
DRDO Bhavan, New Delhi - 110 011.

3) The Director,
Defence Research & Development Laboratory (DRDL)
Kanchan Bagh, Hyderabad - 500 058.

... Respondents

(By Advocate: Sri M. Brahma Reddy, Sr. PC to CG)

ORAL ORDER
(Per Hon'ble Mr. Ashish Kalia, Judl. Member)

The present O.A. is filed seeking the following reliefs:



to declare the action of third respondent in issuing impugned letter No.DRDL/1150/MA/ESTT dated 17.08.2021 and not giving the benefit of encashment of 300 days of EL to the applicant for which he is eligible on the date of his superannuation as arbitrary, illegal, against the principles of natural justice and violative of Rule 39 (2) (a) of Central Civil Services (Leave) Rules, 1972, as per the clarification issued by the DRDO in letter No.DOP/03/37160/SCM-1(14)/M/07 dated 25.11.2016 and as per Central Civil Services (Classification, Control and Appeal) Rules, 1965 and set aside the same and pass such other order or orders as this Hon'ble Tribunal deems fit and proper in the circumstances of the case.

2. The brief facts of the case are that the applicant joined Indian Air Force as Airman on 10.01.1981 and worked up to 31.01.2001 and discharged from service as Junior Warrant Officer with pension as an Ex-Serviceman after completion of total service of 20 years and 22 days. Thereafter, he joined the respondent's organization as Stores Officer on 3.1.2005 and retired on superannuation on 31.7.2021. It is the grievance of the applicant that he was paid encashment of earned leave for 34 days only instead of his eligibility of 204 days of Earned Leave (EL) and 296 days of half pay leave put together of 300 days of maximum (204 days of EL and 296 days of HPL) vide impugned letter dated 17.08.2021. Feeling aggrieved by this, he has approached this Tribunal for redressal of his grievance.



3. Notices were issued and the respondents have filed reply wherein they took stand that the case of the applicant is squarely covered by Rule 39(6)(a)(iii) of CCS (Leave Rules) 1972 which stipulates that "a Government servant, who is re-employed after retirement may, on termination of his re-employment, be granted, suo moto, by an authority competent to grant leave, cash equivalent in respect of both earned leave and half pay leave at his credit on the date of termination of re-employment subject to a maximum of 300 days including the period for which encashment was allowed at the time of retirement and the cash equivalent payable shall be the same as in sub rule (2) of Rule 39."

4. The applicant has filed rejoinder wherein he has stated that he should be treated as having entered the Government service for the first time on the date of his re-employment as per Rule 34 of Central Civil Services (Leave) Rules, 1972. In support of his contention, he has relied upon the clarification issued by the 2nd respondent in his letter dated 25.11.2016.

5. Heard the learned counsel for the applicant and the learned counsel for the respondents and perused the pleadings on record.

6. The Rule position in this regard i.e. Rule 39(2) is very clear. Only once in the entire service, one can avail leave encashment for a maximum of 300 days/ unutilized Earned Leave and Half Pay Leave. The applicant has made a request by quoting Rule 34(2)(e) of CCS (CCA) Rules, 1965. No relevant rule/ legal position has been brought

to our knowledge. As such, we are not convinced with the contentions of the applicant. After going through the records, we are of the view that the O.A. is not maintainable and is liable to be dismissed. Accordingly, the O.A. is dismissed. No order as to costs.



(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER
/pv/

(ASHISH KALIA)
JUDICIAL MEMBER