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**BEFORE THE HON'BLE STATE ADMINISTRATIVE
TRIBUNAL BENCH, RAIPUR (C.G.)**

WP(S) 4284/95

ORIGINAL APPLICATION NO. /2001

Applicant :

I. P. Barik S/o Chintamani Barik
Age - 63 years , Retire Development
Officer (D. R. D. A.)
R/o-Boirdader, Distt. Raigarh (C.G.)

Versus

Respondent :

- 1.. Secretary through
Rural Development Deptt.
D. K. Bhawan , Raipur (C.G.)
2. Collector Raigarh
Raigarh (C.G.)
3. Block Development Officer
Gharghoda , Distt. Raigarh (C.G.)

**APPLICATION U/s. 20 OF M.P. STATE ADMINISTRATIVE
TRIBUNAL ACT.**

(1) **Particulars of Applicant :-**

As mentioned in cause of title .

(2) **Particulars of Respondent :-**

As mentioned in cause of title .

(3) **Particulars against this application is made :-**

Being aggrieved by the respondent impinged order
No. 200 / Est. / 96-97 , Gharghoda dated 4-2-1997 in which

Countd....

[Signature]
Advocate
RNGAR-496091



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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4284 of 2005

• I.P. Barik

---- Petitioner

Versus

• State And Ors.

--- Respondent

Shri Manish Sharma and Shri Pragalbh Sharma, counsel for the petitioner/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

31/01/2017

The petitioner had earlier filed original application before the State Administration Tribunal, Raipur in the year 2001. After abolition of the Tribunal, the case has been transferred to this Court.

2. Challenge is to the order dated 04/02/97 (Annexure P/1) by which, leave period of the petitioner has been regularised by treating it as leave without pay with a further direction to adjust the amount already paid to the petitioner from his future salary.
3. The petitioner, while working as Development Extension Officer, Gharghoda had proceeded on leave in different period blocks from 12/02/1996 to 06/01/1997. The petitioner's application for leave in respect of different blocks of absence were treated in the manner indicated in impugned order dated 04/02/1997. All these periods were regularised as leave without pay.
4. Learned counsel for the petitioner submits that action of the respondents in treating those period of absence, for which, leave application was submitted by the petitioner, was illegal because the petitioner was paid salary in respect of that period and once, he was paid salary, later on, order of treating the period of

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absence as leave without pay, was illegal. It is also submitted that the petitioner is entitled to release of salary of 49 days for which, he had already received payments prior to the impugned order.

5. On the other hand, learned State counsel submits that the petitioner being Government Servant is entitled to leave only in accordance with the provisions contained in C.G. Civil Services (Leave) Rules, 1977 (for short 'Rules of 1977'). Having found that in the leave account of the petitioner, there were limited number of leaves, it was not possible for the respondents to grant him leave with pay in excess of number of leaves earned by the petitioner in his leave account. The impugned order shows that in respect of different blocks of period, absence of the petitioner has been regularised as leave without pay. As the petitioner was already granted salary, a consequential direction has also been issued for adjustment from future pay.

In the reply of the respondents, it has been clearly stated that the petitioner had limited number of earned leaves in his leave account. Keeping in view the aforesaid records, the period of absence of the petitioner has been regularised.

It is well settled that leave is not a right. Learned counsel for the petitioner could not demonstrate from any of the provisions of the Rules of 1977 as to how treatment given to the period of absence by order dated 04/02/1997 is contrary to the provisions of the leave rules. Once it is found that the period of leave has been regularised as leave without pay, in the absence of there being anything to demonstrate that the petitioner had equal or more number of earned leaves in the leave account, in the considered opinion of this Court, the treatment given to the period of absence by treating it as leave without pay for the period of which there were no earned leave available in the leave account, no fault is found in the impugned order. The petition is accordingly dismissed.

Sd/-
Manindra Mohan Shrivastava
Judge