



सत्यमेव जयते

भारत सरकार
GOVERNMENT OF INDIA
वित्त मंत्रालय, राजस्व विभाग
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE
आयुक्त का कार्यालय OFFICE OF THE COMMISSIONER



केंद्रीय वस्तु एवं सेवा कर तथा केंद्रीय उत्पाद शुल्क, अहमदाबाद उत्तर
CENTRAL GOODS & SERVICES TAX & CENTRAL EXCISE, AHMEDABAD NORTH
पहली मंजिल, कस्टम हाउस, नवरंगपुरा, अहमदाबाद - 380009
FIRST FLOOR, CUSTOM HOUSE, NAVRANGPURA, AHMEDABAD - 380009

फोन Phone : 079-27542182 ई-मेल E-Mail : techahd2@gmail.com फैक्स Fax : 079-27544463

फा.सं. IV/आरटीआई-43/18-19

दिनांक 18.04.2019

स्पीड पोस्ट/पंजीकृत पावती डाक द्वारा

By Speed Post/Reg.AD

- क. फाइल संख्या File Number : IV/आरटीआई-41/18-19
- ख. मूल आदेश संख्या : 27/2018-19
Order-in-Original No.
- ग. जारीकर्ता Passed By : एन. के. सिंह
केंद्रीय लोक सूचना अधिकारी
केंद्रीय वस्तु एवं सेवा कर तथा के. उ. शुल्क
अहमदाबाद उत्तर
- घ. आदेश जारी करने की तिथि : 18.04.2019
Date of Order/Issue
- इ. आवेदक का नाम व पता : **Shri Vasudevan Ks, 503-B Kaushtub**
Name & address of the **Apartments, Desai Falia, Halar Road, Valsad**
applicant **Gujarat 396001.**

यह मूल आदेश संबंधित को निःशुल्क उपलब्ध करवाया गया है ।

This Oder-in-Original is granted to the concerned free of charge.

1. इस मूल आदेश से असंतुष्ट कोई भी व्यक्ति सूचना का अधिकार अधिनियम, 2005 की धारा 19(1) के तहत निम्नलिखित को अपील कर सकता है :

श्री ज्ञानचंद जैन, प्रथम अपील प्राधिकारी, अपर आयुक्त,
केंद्रीय वस्तु एवं सेवा कर तथा के. उ. शुल्क, अहमदाबाद उत्तर आयुक्तालय,
प्रथम तल, कस्टम हाउस, नवरंगपुरा, अहमदाबाद 380009

Any person aggrieved by this Order-in-Original may file an appeal under section 19(1) of the Right to Information Act, 2005 to:

Sh. Gyan Chand Jain, First Appellate Authority, Additional Commissioner,
Office of the Commissioner of CGST & Central Excise, Ahmedabad-North,
First Floor. Custom House. Navrangpura. Ahmedabad - 380009



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फा.सं. F.No. IV/आरटीआई-43/18-19

दिनांक 18.04.2019

सूचना का अधिकार अधिनियम, 2005 की धारा 7(1) के तहत आदेश
Order under Section 7(1) of the Right to Information Act, 2005

सूचना का अधिकार आदेश संख्या RTI Order No. : 27/2018-19

RTI request of Shri Vasudevan Ks, 503-B Kaushtub Apartments, Desai Falia, Halar Road, Valsad Gujarat 396001 received in the office of Central Public Information Officer, Central Goods & Services & C.Ex., Ahmedabad North, Ahmedabad from CCO office.

In this regard the point wise reply pertaining to this office is as following-

1. 01 employee retired during pending proceedings.
2. No employee received any retirement benefits.
3. 01 employee's gratuity was withheld.
4. 01 employee's leave encashment was withheld
5. The relevant Govt. Circular for withholding the gratuity and leave encashment is attached herewith

Encl-As Above

(एन. के. सिंह)

केंद्रीय लोक सूचना अधिकारी
केंद्रीय वस्तु एवं सेवा कर तथा के. उ. शुल्क
अहमदाबाद उत्तर
अहमदाबाद

फा सं F No IV/आरटीआई/43/18-19

दिनांक--18 04 2019

✓ Copy to - Systems - HQ, Ahmedabad, North

Address : 503-B Kaushtub Apartments, Desai Falia, Halar Road., Valsad gujarat, Pin:396001	
State : Gujarat	Country : India
Phone No. : +91-9727706525	Mobile No. : +91-9727706525
Email : ksvchary@rediffmail.com	
Status(Rural/Urban) : Urban	Education Status : Graduate
Is Requester Below Poverty Line ? : No	Citizenship Status : Indian
Amount Paid : 10)	Mode of Payment : Payment Gateway
Request Pertains to :	
<p>Sir</p> <p>There are instances where Govt. servants retire during pendency of criminal trial or departmental proceedings. As such kindly provide the following information.</p> <p>Information Sought :</p> <ol style="list-style-type: none"> 1 No. of employees retired during pending proceedings 2 No. of employees (of above) whose retirement benefits were given. 3 No. of employees whose gratuity were withheld. 4 No. of employees whose leave encashment withheld. 5 Copy of the relevant instructions or Govt orders for withholding the leave encashment and gratuity 	
Print Save Close	

F.No.C-14010/2/2010 -Ad.V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Ad. V Section)

6th Floor, C-Wing, Hudco Vishala Bldg,
Bhikaji Cama Place, New Delhi.
Date the 18th January, 2011.

To

All Director Generals
All Chief Commissioners of Customs, Central Excise & Service Tax Zones
The Narcotics Commissioner
Directorate of Publicity & Public Relations

Sub: Release of leave encashment under Rule 39(3) of CCS (Leave) Rules to retiring employee – reg.

Sir/ Madam,

The Board has received references from field formations seeking advice regarding release of withheld leave encashment in respect of retired officers against whom disciplinary proceedings under CCS(CCA)Rules, 1965 are pending.

2. The matter has been considered. Rule 39(3) of CCS(Leave) Rules, 1972 provides as below:

“The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings, he will become eligible to the amount so withheld after adjustment of Government dues, if any.”

2. On a reference made by the Department, the DOPT has clarified the scope of the said Rule 39(3) as under:

“Rule 39(3) of CCS (Leave) Rules, 1972 makes provision for withholding whole or part of the payment due on account of encashment of leave temporarily so that if some money is to be recovered as a result of disciplinary/ criminal proceedings, it could easily be adjustable against the amount due to the Govt. servant. However, the final withholding of the amount as a measure of punishment would not be justified under the leave encashment rules as the various forms of punishment that could be given to an individual held guilty as a result of disciplinary proceedings are specified in the relevant rules and they do not cover this type of punishment. Further withholding of leave encashment should be resorted to only in those cases where there is a likelihood of some money becoming due, for instance, where the

proceedings are on account of embezzlement of Govt. funds or loss of public money etc. Each case should be examined at the time of retirement to see whether withholding of amount is necessary keeping in view the nature of charges against the individual and the amount of possible recoveries from the individual should only be withheld and not necessarily the entire amount of encashment."

3 It is clear from the provisions of Rule 39(3) of CCS(Leave) Rules, 1972 as further clarified by DoPT, that leave encashment should not be withheld in respect of a retiring employee because of pendency of a departmental proceeding etc. as a matter of course. The charges against the officer should be carefully considered before deciding whether withholding of the amount of leave encashment due to the employee is necessary keeping in view the nature of charges against the individual. Such charges should refer to or imply a specific loss to the public money because of embezzlement or other acts of misconduct of the officer. Further, where it is proposed to withhold the leave encashment at the time of retirement till the pending proceedings are finalized, the amount of leave encashment to be withheld should not exceed the amount of possible recoveries from the charged retiring officer on finalization of the proceedings.

4. All cases where the leave encashment has already been withheld but where the proceedings at the time of retirement have not been finalized so far should be reviewed in the light of the above clarification and where there is no justification for withholding the same, the amount should be released immediately.

Yours faithfully

(Vijay Kumar)
Deputy Secretary to the Government of India

re-employment up to the limit of 60 days in accordance with Rule 38-A (including the number of days for which encashment has been allowed along with Leave Travel Concession while in service), provided he is entitled to LTC.

[Gl. Dept. of Per. & Trg., O.M. No. 14028/1/2010-Estt. (L), dated the 2nd March, 2010.]

39. Leave / Cash payment in lieu of leave beyond the date of retirement, compulsory retirement or quitting of service

(1) No leave shall be granted to a Government servant beyond—

- (a) the date of his retirement, or
- (b) the date of his final cessation of duties, or
- (c) the date on which he retires by giving notice to Government or he is retired by Government by giving him notice or pay and allowances in lieu of such notice, in accordance with the terms and conditions of his service, or
- (d) the date of his resignation from service.

† (2) (a) Where a Government servant retires on attaining the normal age prescribed for retirement under the terms and conditions governing his service, the authority competent to grant leave shall, *suo motu*, issue an order granting cash equivalent of leave salary for both earned leave and half pay leave, if any, at the credit of the Government servant on the date of his retirement subject to a maximum of 300 days;

(b) The cash equivalent of leave salary under Clause (a) shall be calculated as follows and shall be payable in one lumpsum as a one-time settlement,—

<p>(i) Cash equivalent for earned leave</p>	<p>Pay admissible on the date of retirement plus Dearness Allowance admissible on that date</p>
=	Number of days of unutilized earned leave at credit subject to the total of earned leave and half pay leave not exceeding 300 days
30	x

1. Substituted *vide* Gl., Dept. of Per. & Trg., Notification No. F. No. 11012/1/2009-Estt. (L), dated the 1st December, 2009, published as GSR 170 in the Gazette of India, dated the 5th December, 2009. Takes effect from 1-1-2006, *vide* O.M., dated 16-11-2009 — Sec GID (5-B) below Rule 39 (D).

<p>(ii) Cash payment in lieu of half pay leave component</p>	<p>Half pay leave salary admissible on the date of retirement plus Dearness Allowance admissible on that date</p>
=	Number of days of half pay leave at credit subject to the total of earned leave and half pay leave at credit not exceeding 300 days
30	x

NOTE.— The overall limit for encashment of leave including both earned leave and half pay leave shall not exceed 300 days.

(c) To make up the shortfall in earned leave, no commutation of half pay leave shall be permissible.]

(3) The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings, he will become eligible to the amount so withheld after adjustment of Government dues, if any.

(4) (a) Where the service of a Government servant has been extended, in the interest of public service beyond the date of his retirement, he may be granted—

(i) during the period of extension, any earned leave due in respect of the period of such extension plus the earned leave which was at his credit on the date of his retirement subject to a maximum of 180 days / [300 days][†] as the case may be, as prescribed in Rule 26.

‡ (ii) after expiry of the period of extension, cash equivalent in the manner provided in Clause (b) of sub-rule (2) in respect of both earned leave and half pay leave at credit on the date of retirement, plus the earned leave and half pay leave earned during the period of extension reduced by the earned leave and half pay leave availed of during such period, subject to a maximum of 300 days.]

1. Substituted for "240 days" *vide* Gl., Dept. of Per. & Trg., Notification No. 13026/1/99-Estt. (L), dated the 18th April, 2002, published as GSR 149 in the Gazette of India, dated the 27th April, 2002. Takes effect from 1-7-1997 *vide* O.M., dated 7-10-1997.

2. Omitted *vide* Gl., Dept. of Per. & Trg., Notification No. F. No. 11012/1/2009-Estt. (L), dated the 1st December, 2009, published as GSR 170 in the Gazette of India, dated the 5th December, 2009. Takes effect from 1-9-2008, *vide* GID (4) below Rule 26.

3. Substituted *vide* Gl., Dept. of Per. & Trg., Notification No. F. No. 11012/1/2009-Estt. (L), dated the 1st December, 2009, published as GSR 170 in the Gazette of India, dated the 5th December, 2009. Takes effect from 1-1-2006, *vide* GID (5-B) below Rule 39 (D).

NOTE.— *Not printed.*

(b) The cash equivalent payable under sub-clause (ii) of Clause (a) of this sub-rule shall be calculated in the manner indicated in Clause (b) of sub-rule (2) above.

[5] A Government servant who retires or is retired from service in the manner mentioned in Clause (c) of sub-rule (1), may be granted *suo motu*, by the authority competent to grant leave, cash equivalent of the leave salary in respect of both earned leave and half pay leave at his credit subject to a maximum of 300 days. The cash equivalent payable shall be the same as in sub-rule (2) of Rule 39.]

(5-A) ² Deleted

(6) (a) [(i) where the services of a Government servant are terminated by notice or by payment of pay and allowances in lieu of notice or otherwise in accordance with the terms and conditions of his appointment, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of both earned leave and half pay leave at his credit on the date on which he ceases to be in service subject to a maximum of 300 days and the cash equivalent payable shall be the same as in sub-rule (2) of Rule 39.]

(ii) If a Government servant resigns or quits service, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date of cessation of service, to the extent of half of such leave at his credit, subject to a maximum of [150 days].

[(iii) A Government servant, who is re-employed after retirement may, on termination of his re-employment, be granted, *suo motu*, 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

1. Substituted *vide* G.I., Dept. of Per. & Trg., Notification No. F. No. 11012/1/2009-Estt. (L), dated the 1st December, 2009, published as GSR 170 in the Gazette of India, dated the 5th December, 2009. Takes effect from 1-1-2006, *vide* GID (5-B) below Rule 39 (D).

2. *Wide* G.I., Dept. of Per. & Trg., Notification No. 14028/1/2004-Estt. (L), dated the 13th February, 2006, published as GSR 47 in the Gazette of India, dated the 4th March, 2006. Takes effect from 13-2-2006 *vide* O.M., dated 13-2-2006.

3. Substituted *vide* G.I., Dept. of Per. & Trg., Notification No. F. No. 11012/1/2009-Estt. (L), dated the 1st December, 2009, published as GSR 170 in the Gazette of India, dated the 5th December, 2009. Takes effect from 1-1-2006 *vide* O.M., dated 16-11-2009 — See GID (5-B) below Rule 39 (D).

4. Substituted for "120 days" *vide* G.I., Dept. of Per. & Trg., Notification No. 13026/1/99-Estt. (L), dated the 18th April, 2002, published as GSR 149 in the Gazette of India, dated the 27th April, 2002. Takes effect from 1-7-1997 *vide* O.M., dated 7-10-1997.

and the cash equivalent payable shall be the same as in sub-rule (2) of Rule 39.]

(b) The cash equivalent payable under Clause (a) shall be calculated in the manner indicated in Clause (b) of sub-rule (2) and for the purpose of computation of cash equivalent under sub-clause (iii) of Clause (a), the pay on the date of the termination of re-employment shall be the pay fixed in the scale of post of re-employment before adjustment of pension and pension equivalent of other retirement benefits, and the Dearness Allowance appropriate to that pay.

39-A. Cash equivalent of leave salary in case of death in service

In case a Government servant dies while in service, the cash equivalent of leave salary for both earned leave and half pay leave, if any, at the credit of the deceased Government servant on the date of his death, not exceeding 300 days shall be paid to his family in the manner specified in Rule 39-C and the cash equivalent payable shall be the same as in sub-rule (2) of Rule 39.

NOTE.— In addition to the cash equivalent of leave salary admissible under this rule, the family of the deceased Government servant shall also be entitled to payment of Dearness Allowance only as per orders issued in this behalf separately.

39-B. Cash equivalent of leave salary in case of invalidation from service

(1) A Government servant who is declared by a Medical Authority to be completely and permanently incapacitated for further service may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent of leave salary in respect of both earned leave and half pay leave, if any, at the credit of the Government servant on the date of invalidation from service, subject to a maximum of 300 days and the cash equivalent payable shall be the same as in sub-rule (2) of Rule 39.

(2) A Government servant not in permanent employ or quasi-permanent employ shall not, however, be granted cash equivalent of leave salary in respect of half pay leave standing at his credit on the date of his invalidation from service.

1. Substituted *vide* G.I., Dept. of Per. & Trg., Notification No. F. No. 11012/1/2009-Estt. (L), dated the 1st December, 2009, published as GSR 170 in the Gazette of India, dated the 5th December, 2009. Takes effect from 1-1-2006, *vide* O.M., dated 16-11-2009 — See GID (5-B) below Rule 39 (D).