

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. 1602/96

AND

M.A 2101/97 in

M.A. 2544/97.

New Delhi: this this the 3<sup>rd</sup> December, 1997.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Krishna Kumar,

S/o Hari Singh,

180/1, Railway Colony,  
Kishan ganj,

Delhi- 07

..... Applicant.

(By Advocate: Shri H.P. Chakravorty )

Versus

Union of India through

1. General Manager,  
Northern Railway,

Baroda House,

New Delhi.

2. Divisional Railway Manager,  
Northern Railway,

State Entry Road,

New Delhi.

... Respondents.

(By Advocate: Shri R.L. Dhanwan )

JUDGMENT

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

Applicant seeks fixation of pay in terms of para 1313 IREM Vol. I taking into consideration the running allowance drawn by him on the last post and arrears w.e.f. 16.1.86 with interest thereon.

2. Applicant who was working as a Fireman and thus belonged to the category of running staff suffered an injury on a result of which he was sent to appear before M.S. Northern Railway vide letter dated 29.10.85 (Annexure-A1). Upon the M.S's recommendation dated 4.11.85 (Annexure-A2)

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applicant was absorbed on the post of Coach Attendant (Rs.800-1500) vide letter dated 22.12.87, after obtaining his consent in June, 1987.

3. We have heard Shri Chakravorty for applicant and Shri Chawan for respondents.

4. Applicants' contention is that the 30% running allowance he was drawing as Fireman should have been <sup>to</sup> promoted, if necessary by making it personal to him, while fixing his pay as Coach Attendant.

5. A perusal of Para 1313 IREM Vol.I makes it clear that protection of running allowance is to be made in cases of decategorisation, under circumstances arising out of, and in the course of employment.

6. Although applicant contends that he sustained the aforesaid injury under circumstances arising out of and in the course of employment, a perusal of FIR dated 26.12.84 (copy with rejoinder) filed by him, makes it clear that the injuries were sustained by him owing to private enmity in a tea shop on 26.12.84 and was not under circumstances arising out of and in the course of his employment. Hence the M.P. High Court's judgment in S.K.Mishra Vs. UOI & Ors. 1996 Lab I.C. 88 relied upon by Shri Chakravorty does not help the applicant. Shri Chakravorty had sought and was given time till 1.12.97 to produce other judgments in support of his contention, but no other judgment has been shown to us.

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7. The OA is therefore dismissed. No costs.

*Lakshmi Swaminathan*  
( MRS. LAKSHMI SWAMINATHAN )  
MEMBER(J)

*S.R. Adige*  
( S. R. ADIGE )  
VICE CHAIRMAN (A)

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