

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

RA-117/97 in
MA-1132/97
OA-929/96

11

New Delhi this the 8th day of July, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Hari Chand,
S/o late Sh. Dal Chand,
R/o 3220, Gali School Wali,
Paharganj,
New Delhi-55.

..... Review Applicant

(through Sh. H.P. Chakravorty, advocate)

- versus

1. Union of India through
its General Manager,
Northern Railway,
Baroda House,
Headquarter's Office,
New Delhi.
 2. The Divl. Railway Manager,
Northern Railway, DRM Office,
Pahar Ganj, New Delhi.
 3. The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court, 11th Floor,
Ansal Bhawan, Kasturba Gandhi Marg,
New Delhi.
- Respondents

(through Sh. R.L. Dhawan, advocate).

ORDER(ORAL)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

The original application was filed by the applicant seeking officiating allowance for a period from 18.10.90 to 14.6.91 when he actually worked in a higher pay scale of Rs. 1600-2600/- while his original pay scale was Rs.1400-2300/-. It was also pointed out that prior to 18.10.90, he was given similar officiating allowance from 18.7.90 to 17.10.90 vide page-14 of the O.A. The applicant approached the Labour Court and the Court passed an order rejecting the claim on the basis of the

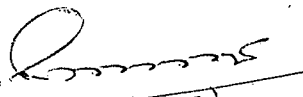
12


decision of the Hon'ble Supreme Court stating that such petition is not maintainable under Section 32(c) of I.D. Act, 1947. Aggrieved by the said order, he approached this Tribunal and this was initially dismissed on the ground that this Tribunal also has no jurisdiction on the basis of Section 29 of the A.T. Act, 1985. Subsequently, it was pointed out in a review application that the Hon'ble Supreme Court in its order in the matter of L. Chandra Kumar & Ors. Vs. U.O.I. has struck down Section 29 even though it was pointed out that the court went to strike down only the first part of the Section 29 but the fact remains that the entire Section 29 has been struck down. In view of this fact, this Court restored the O.A. and O.A. has been heard today finally.

The ld. counsel for the respondents states that the case of the applicant is covered under Rule 216 of I.R.E.M. pertaining to officiating allowance and ordinarily such officiating allowance is permissible only for a short period of 3/4 months and the employee on ad hoc basis shall be utilised from span and if at all it is to be done, it must be from amongst the senior most available with the prior approval of the appropriate authority. Since the Rule of stipulation to pay officiating allowance for a period of 3 to 4 months, "ordinarily", and the respondents have already paid officiating allowance for a period immediately prior to the disputed

13

period, and since the respondents have already taken work from the applicant for the remaining period, he is entitled to officiating allowance also for the remaining period, i.e. 18.10.90 to 14.6.91. In the circumstances, we direct the respondents to pay the officiating allowance and pass appropriate orders in accordance with the rules within two months from today. Accordingly, the order in O.A. is modified to that extent and the R.A. is disposed of in these terms. No costs.


(S.P. Biswas)
M(A)


(Dr. Jose P. Verghese)
V.C.(J)

/vv/