

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. No. 58/1993
New Delhi, this the 19th day of August, 1994. (18)

HON'BLE SHRI J.P.SHARMA MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

Chaman Lal s/o
Shri Sukh Dayal,
9/5643, Gali No.4,
Ajit Nagar, Gandhi Nagar,
Delhi.

..Applicant

(By advocate Shri PLMimroth)

Vs.

1. Union of India through
General Manager
North Eastern Railway
Gorakhpur (U.P.)

2. Division Railway Manager,
North Eastern Railway,
Izat Nagar (U.P.)

3. Divisional Railway Manager
North Eastern Railway,
Varanasi.

4. Divisional Railway Manager,
North Eastern Railway,
Sonpur.

5. Station Incharge,
Kirakat Railway Station (NE Rly)
through Divisional Rly. Manager,
Varanasi (U.P.).

..Respondents

(By Advocate Shri Syman Moorjani)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A)

The applicant retired on superannuation on 31-8-1992 and has filed this O.A. on 6-1-1993 for directions for arranging payment of the salary and allowances and other entitled dues which accrued to him during his service.

2. 17 items have been listed as outstanding dues. Of these, the following items have already been settled and accordingly accepted in the rejoinder.

1. Non-payment of bonus for the year 1989-90 amounting to Rs.2420/-

2. Non-payment of salary of suspension period amounting to Rs.636/-

(a)

3. Illegal recovery of house rent amounting to Rs.300/-.

4. Non-payment of house rent allowance of Rs.1320/- for the period from 1-12-91 to 31-5-92.

5. Non-payment of transfer and packing allowance.

6. Difference of D.A. for 8 months leave period.

Regarding the remaining 11 items the position is as under:-

(i) Benefits of fixation of pay and the arrears from 30-9-88 to 30-4-91.

We are to note that this claim is barred by limitation since the Tribunal has been approached only in January 1993. Even on merits, we note that the stand taken by the respondents that the arrears of pay from 19-10-89 to March 1991 have already been paid to the applicant. In the rejoinder, the dispute raised has been restricted to the period from 30-9-88 to 18-10-89 and the case of the applicant is that he was empanelled for promotion to the higher post on 30-9-88. He was issued promotion order on 27-12-88 but he was physically relieved for promotion only on 18-10-89. The respondents have stated that there is no provision to give the benefit of fixation of pay in the higher scale since the applicant had not shouldered the higher responsibilities of the higher grade physically to cover the post. We do not propose to go into the delay that occurred in releasing the applicant between 27-12-88 to 18-10-89, since he approached the Tribunal beyond the limitation period. Even otherwise higher scale cannot be normally granted unless an employee takes over the higher post.

(ii) Non-payment of overtime amounting to Rs.24,156.25.

The applicant has claimed overtime for the

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period from 1-1-82 to 30-9-89. Since he has approached the Tribunal beyond the limitation period, the relief in this regard is liable to be dismissed. Apart from above the respondents have averred that the applicant never submitted any over time sheet for payment. Even the claim made by the applicant that the O.T. sheet was ~~to~~ be verified by the Commercial Inspector has been denied by the respondents. The respondents have also disowned receipt of any representation by the applicant in this regard. In view of the above, this relief cannot be allowed.

(iii) Non-payment of difference of pay from 2-8-77 to 12-8-83 amounting to Rs.5,292.05.

This relief is claimed based on certain proforma fixation. The respondents have brought out that for proforma promotion, no arrears are payable. In view of above as well as limitation this relief has to be negated.

(iv) Non payment of presumptive pay from 1-9-84 to 30-9-89.

It is claimed by the applicant that he was performing the duties of station master/booking clerk and that of goodsclerk for the said period. This claim has been totally rejected by the respondents who have stated that during the period 1984 to 1986, incumbents against the post of station master and booking clerk were present. In the year 1986 the station was converted into a flag station and sanction of operative staff was withdrawn and against the remaining post of one Goods Superintendent and booking clerk other persons were present. In view of above as well as on account of limitation, this relief cannot be allowed.

(v) Non-payment of contingent T.A.Bill (Rs.378/-).

Respondents have stated in the reply that the

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T.A. bill/contingent bill No.E/9/04-508/IZN dated 27-7-93 amounting to Rs.350/- was prepared and the payment was made vide cheque No.001275 dated 15-9-1993. However the applicant has denied the receipt of any such payment as stated in his rejoinder. In view of above the respondents are directed to once again check the steps taken for the above payment and advise the applicant in this O.A. with necessary details within three months from the date of receipt of this order.

(vi) Forced recovery of Rs.1464.60 on account of alleged electrical charges.

The stand of the respondents is that pay order No.14035/39 dated 19-4-93 amounting to Rs.1436/- had been prepared and sent to DAO/IZN for check and payment on 18-10-93. The applicant in his rejoinder has denied the receipt of this payment. In the circumstances, respondents are directed to once again check details of the payment and advise the applicant in this O.A. suitably within three months from the date of receipt of this order.

(vii) Non-payment of travelling allowance amounting to Rs.1794/-.

The stand of the respondents is that for the months of July and August 1992, payment had been arranged for a total amount of Rs.1542/-. The applicant in his rejoinder has accepted the receipt of this amount and claims that he should have been paid Rs.1794/-; (Rs.1152/- for July 1992 and Rs.642/- for August 1992) (Total Rs.1794/-). In the circumstances, the respondents are directed to check regarding the claim made by the applicant and advise the applicant within three months from the date of receipt of this order.

(viii) Forced and wrong recovery of coaching debits (Rs.197/-).

The stand of the respondents is that the

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applicant had taken under charge fare in P.W.bill No.680240 dated 28-11-87 and instead of double rate he had charged only single rate and hence the recovery had to be made by the applicant. We do not see any fault in the action taken by the respondents.

(ix) Forced and wrong recovery of ticket debits Rs.250/-.

The case of the respondents is that 53 tickets had not been taken into account at the time of making over of charge to Shri CB Prasad, HBC. Accordingly an amount of Rs.250/- was debit able to the ticket. The stand taken by the respondents is in order.

(x) Non-payment of prize money Rs.100/-.

The respondents have stated that the amount of Rs.100/- is lying pending with commercial office for want of PI-16 forms of the applicant and is thus due to lapse of the applicant himself. The applicant in his rejoinder has mentioned that these forms had been submitted on 8-9-93. Under the circumstances the respondents are directed to arrange the payment, if necessary, by once again contacting the applicant and the payment should be made within three months from the date of receipt of this order.

(xi) Interest of Rs.1682/- for delayed payment of DCRG.

The case of the applicant is that he retired on 31-8-1992 but the gratuity amount was paid only on 23-11-1992 and thus he has claimed interest on delay beyond 30 days.

The respondents have quoted the Ministry's instructions in circular No.F(E)III-87/PNPN dated 17-11-1987 as per which a time allowance for six months is permissible in commercial cases like that of the applicant.

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2. (xi) In view of above, these reliefs cannot be allowed.

4. In the circumstances, the O.A. is disposed of as per directions given against items (v), (vi) ^(vii) & (x) in the list pertaining to cases which are still disputed by the applicant. No costs.

P. J. Dhand

(P.T.THIRUVENGADAM)
Member (A)

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J. P. Sharma

(J.P.SHARMA)
Member (J)