

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

ALLAHABAD.

Original Application No.
Transfer Application no.

1316/97

Date of Decision 25th Sept, 98

Bachan Lal

Applicant(s)

Shri V. N. Dharliker
Counsel for the Applicant

Counsel for the
Applicant(s)

VERSUS

Union of India & ors

Respondent(s)

Shri A. Sthekeal

Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. S. L. Jain, J.M.
Hon'ble Mr. _____

1.

1. Whether Reporters of local papers may be allowed to see the judgment ? yes

2.

To be referred to the Reporters or not ? yes

3.

Whether their Lordship wish to see the fair copy of the judgment ? no

6.

Whether to be circulated to all Benches ? no

P. G. M.
(SIGNATURE)

PIYUSH/

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD

DATED : ALLD. ON THIS 25th DAY OF SEPTEMBER , 1998

CORAM : HON'BLE SHRI S. L. JAIN , MEMBER (JUDICIAL)

ORIGINAL APPLICATION NO. 1316 OF 1997

Bachaulal S/o Behari
R/o Baihrana, Allahabad

.... Applicant

C / A :- Shri V.N.Dhavlikar, advocate

Versus

1. Union of India through Secretary, Ministry of Railways, Baroda House, New Delhi.
2. General Manager, Indian Railway, Baroda House, New Delhi.
3. D.R.M., Northern Railway, Allahabad
4. DRM(Persl), Northern Railway, Allahabad
5. Chief Controller, Northern Railway, Allahabad

.... Respondents

C/R :- Shri A.Sthalekar, Advocate

O R D E R

(By Hon'ble Shri S.L. Jain, Member (J))

This is an application filed by the applicant under section 19 of the Administrative Tribunals' Act, 1985 for a direction to the respondents to pay pension month to month since 31.03.1997, to pay D.C.R.G., Group Insurance 1980, encashment of leaves due, arrears of pension since 31.03.1997 till date with interest @ 18% p.a. on all the above amounts.

1. There is no dispute between the parties in respect of the fact that the applicant was working in Class IV (Trolleyman) since 22.04.1960 and after attaining the age of 58 years retired from service on 31.03.1997. Respondent No.3 issued a control message stating to settle the payment to the staff retired on 31.03.1997 for payment of the same on 03.04.97. The

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applicant was paid Rs.5,971/- as Provident Fund amount only and he was not paid D.C.R.G., pension every month, leave encashment Group insurance amount, hence this O.A.after a representation dated 10.04.1997.

2. The defence of the respondents is to the effect that the applicnat was promoted as Ticket Collector in the Grade of Rs.260-400 in Stop Gap Vavancy purely as a temporary adhoc measure and was posted at Kanpur vide letter no.757-E/TC/EC dated 21.04.1977 where he took over the charge as Ticket Collector on 11.05.1977 , subsequent increment and pay were allowed to him from 11.05.77 to 21.07.82. As he could not find his place on the panel of Ticket Collector , he was reverted to his substantive post on 22.02.82. Instead of joining his substantive post, he remained unauthorisedly absent^{te} from 22.07.82 till 09.05.1989 for a period of 6 years 9 months and 17 days. For regularisation of the period of absence wich exceeds five years, sanction of competent authority i.e. President of India is needed. The said sanction is awaited as the case is now being put up to the competent authority for referring the case to the Headquarter's office , Baroda House, New Delhi. It is further averred that arrangement is being made to make provisional payment of pension,LIC and DCRG.

3. The applicant has submitted the reminder in which period of unauthorised absence from 22.07.1982 till 09.05.1989 is being admitted.

4. It is the duty of the respondents to have obtained the sanction for the period 22.07.82 till 09.05.89 well in advance before retirement of the applicant which took place after joining of the applicant after a period of about 8 years.

5. Railway Services(Pension) Rules,1993 , rules 76 is to the effect that a list is to be prepared every six months on 1st January and 1st July of each year of all the Railway Servants who are due to retire within the next 24 to 30 months of that date. Such list should be supplied to the Accounts Officer concerned not later than 31st January or 31st July as the case may be of that ^{year} date. After preparation of the said list, an intimation to the Director of Estates regarding issue of no Demand certificate in view of rules,77, preparation of

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pension in view of rules-78, completion of pension papers in view of rules-79, forwarding of pension papers to Accounts Officers in view of rules 81 so on and so forth is to be acted upon. It appears that these rules are not acted upon or acted upon in its breach.

6. Even if a period of unauthorised absence of 6 years 9 months and 17 days is excluded from consideration, the applicant has a service at his credit from 22.04.1960 to 21.07.1982 and 10.05.1989 to 31.03.1997. Rules 69 of Railway Services(Pension) Rules,1993 deals with such matters and it does apply to the cases where the employee has not completed even qualifying service of 10 years.

7. Before the sanction from the competent authority is received or heard in this respect otherwise, the applicant is entitled to get his pension determined in view of rules 69 for a broken period of service from 22.04.1960 to 21.07.1982 and 10.05.1989 to 31.03.1997.

8. The applicant has filed a decision in O.A.No.1143 of 1987 for regularisation of the absented period. On perusal of the said judgement I find that order passed is, "respondents may decide the period according to rules". Unfortunately even after lapse of about 9 years, the respondents have not paid any attention in the said direction. This is not a matter to be decided in the present O.A. and no further direction to get the said matter decided is necessitated.

9. In the result, the O.A. is allowed. The respondents are ordered -

(a) to calculate the pension of the applicant for the period commencing from 22.04.1960 to 21.07.1982 and 10.05.1989 to 31.03.1997 in view of rules 69 of Railway Services(Pension) Rules,93 provisionally and pay the same to the applicant within three months ;

(b) the respondent to calculate the D.C.R.G. on the same principles and pay the same to the applicant within three months ;

Sd/-

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(c) to pay Group Insurance amount on the same principles as stated above ²within three months,

(d) to pay leave encashment amount on the same principles as stated above ²within three months,

(e) to pay interest thereon @ 12% p.a. compounded annually ²within three months,

(f) to continue to pay the pension which is fixed as stated above to the applicant every month till the matter of unauthorised absence is decided; ^(g) with cost of litigation amounting to Rs.650/- (Rs.500/- as Legal Practitioner's fee plus Rs.150/- as other expenses) within three months and

(g) before I part with, it is further ordered that the respondents to investigate the matter ^{in respect of} ~~before~~ in action of the official concerned due to which the applicant has to suffer till now and take suitable action against all the erring officials concerned.

MEMBER (J)

/rsd/