

OPEN COURTCENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 23rd day of May 2003.

QUORUM : HON. MR. S. K. AGARWAL, A.M.

HON. MRS. MEERA CHHIBBER, J.M.

O.A. No. 351 of 1997

Smt. Munni Devi widow of Late Raj Bahadur Sharma R/O Ashok
Nagar, Madinath, Bareilly.

..... Applicant.

Counsel for applicant : Sri A. S. Dewakar.

versus

1. Union of India through General Manager, North Eastern
Railway, Gorakhpur.2. Divisional Railway Manager (Personnel), North Eastern
Railway, Izzatnagar, Bareilly.

..... Respondents.

Counsel for respondents : Sri P. Mathur.

ORDER (ORAL)BY HON. MRS. MEERA CHHIBBER, J.M.

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has sought the following relief :-

"Issue writ, order or direction in the nature of mandamus commanding opposite parties to pay the remaining amount of benefits under order dated 31.1.1996 of pay and allowance for the period between the date of removal i.e. 31.5.1984 to date of reinstatement i.e. 29.7.1988 with interest @ 18% thereon for unnecessary delay caused by the authorities."

2. This is the case where there is already a judgment given by the Tribunal on 31.1.1996 in O.A. No. 1132/88 wherein the Tribunal had held as under :-

"The respondents are directed to pay salary to the applicant of his post from 17.5.88 with all consequential benefits from the date of his removal from service to the date of his re-instatement. The period of absence of the applicant from the

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date of his transfer to the date of removal from service shall be adjusted against the leave due. This period, however, will be treated as on duty for all other service benefits."

3. Not being satisfied with this order, applicant's husband took up the matter to Hon'ble Supreme Court. It is relevant to mention here that during the pendency of appeal in the Supreme Court, the applicant's husband died and the legal representatives were brought on record. Hon'ble Supreme Court decided the Civil Appeal No.313/98 finally on 20.1.1998 by holding as under :-

"Taking all these factors into consideration, we are of the view that the ends of justice would be met by directing the respondents to pay 50% of the salary and allowances for the period in question to the legal representatives of the deceased appellant within six months. The appeal is accordingly allowed in part with no order as to costs."

4. Grievance of the applicant in this case is that inspite of positive direction given by the Tribunal to give him pay and allowances from 17.5.88 to the date of his reinstatement, respondents have till date not made the payments to the applicant. Respondents, on the other hand, have submitted that pursuance to the directions given by the Hon'ble Supreme Court, they had already issued order dated 5.6.88 whereby 50% of the amount of salary along with other allowances, as admissible under the rules, were sanctioned for the period from 20.2.81 to 17.5.88 as ordered by the Hon'ble Supreme Court.

5. Learned counsel for applicant submitted that though annexure to C.A. ~~only~~ shows that the amount was sanctioned to be paid to the applicant's husband but in reality there is nothing on record that the said amount was paid to the applicant i.e. the legal representative of Late Raj Bahadur



Sharma. It is also submitted by the applicant that applicant's husband was finally re-instated on 29.7.88, therefore, respondents were ~~also~~ under an obligation to pay him the salary from 17.5.88 to 29.7.88 as well, which has not been paid to them. Respondents, in their reply, have submitted in Para 14 that the respondents have already complied with the direction given by the Tribunal in the matter and further in pursuance of the directions of Hon'ble Supreme Court further 50% pay has been issued in favour of deceased Sri Raj Bahadur ~~whether~~ ^{whether} Sharma. Documents on record show ~~that~~ ^{that} the payments were ~~not~~ ^{not} made indeed to the applicant. This matter was taken up Yesterday when we had directed both the parties to take positive instructions from their respective clients as to what was the actual position but today when the matter was ~~not~~ ^{not} taken, none of the counsel ~~have~~ ^{have} correct picture ~~whether~~ whether the payments have actually been paid to the applicant or not. Since direction had already been given by the Tribunal as well as by Hon'ble Supreme Court to make such payment in favour of applicant, we think it would be appropriate in these circumstances to give a direction to the respondents to give due and drawn statement to the applicant within a period of three months from the date of receipt of a copy of this order and also to check up whether the payments sanctioned by Annexure CA-2 have been paid to the applicant or not. In case due to some inadvertance the payments have still not been made to the applicant, respondents shall make the payments as per Annexure CA-2 to the applicant within the said three months period as stipulated above. As far as the period from 17.5.88 to 29.7.88 is concerned, there is nothing on record to show whether applicant had been paid the pay and allowances for this period or not. Since Tribunal had specifically stated in the judgment that applicant would be entitled to his pay and allowances from the date of dismissal to the date of his re-instatement and the period

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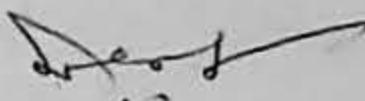
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is to be treated on duty for all purposes including pay and allowances, respondents should also check as to whether the applicant has been paid the pay and allowances for the period from 17.5.88 to 29.7.88 or not. If no payments have been made to the applicant, respondents should check this aspect also and make the necessary payments to the applicant for these two months as well, if not paid already and in case some amounts have ^{already} ~~been~~ paid, after making such adjustment. However, respondents should clearly mention the period for which he has already been paid and the period ~~over~~ ^{for} which he is being paid now.

6. With the above direction, this O.A. is disposed of with no order as to costs.



J.M.



A.M.

Asthana/