OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 676 OF 1998 (1)

WITH

ORIGINAL APPLICATION NUMBER 549 OF 1998

WITH

ORIGINAL APPLICATION NUMBER 551 OF 1998

ALLAHABAD, THIS THE 22nd DAY OF JULY, 2003

HON'BLE MAJ GEN K. K. SRIVASTAVA, MEMBER(A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Asha Ram aged about 22 years,
son of Shri Lala Ram resident of House,
No.115, Sanoura, Near Inter College,
Barua Sagar, District-Jhansi.

(Applicant in O.A. No.676 Of 1998)

Vinod Kumar aged about 24 years,
son of Shri Mannu Lal,
resident of C/O Shri Ram Dayal,
House No.1198, Gondu Compound,
Sipri Bazar, Jhansi.

(Applicant In O.A. No.549 of 1998)

Veer Singh, aged about 25 years,
s/o Shri Ram Dayal, r/o House No.1198,
Gondu Compund, Sipri Bazar,
Jhansi.

(Applicant in O.A. No. 551 of 1998)

.....Applicants

(By Advocate : Shri Rakesh Verma)

V E R S U S

1. Union of India through the
General Manager, Central Railway,
Chhatrapati Shivaji Terminus,
Mumbai V.T.,
Mumbai.

2. The Assistant Works Manager (R),
Central Railway, Jhansi.

.....Respondents

(By Advocate : Shri G.P. Agarwal)

...2/-

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O R D E R

By Hon'ble Mrs. Meera Chhibber, Member (J)

Counsel for the both the sides have submitted that all the three O.As are involving the same issue and are identical in nature though the dates of orders may be slightly different. Therefore, we are deciding all the three O.As by a common order. For the purposes of giving background of the case, we are taking O.A. No.676/98 as leading case.

2. Counsel for the respondents has submitted that all the three O.As have become infructuous as by these O.As applicants have challenged their suspension order on the ground that no chargesheet was issued to them yet they were being continued under suspension for indefinite period. During the pendency of the O.A., respondents not only issued the chargesheet but an enquiry was held, on the basis of findings recorded by the Enquiry Officer, All the three applicants have been dismissed from service by different orders. This fact has not been disputed by the applicants counsel. In fact he has submitted that the dismissal order has already been challenged by filing the different O.As. Counsel for the respondents has filed M.A. No.3791/01 in O.A. No.676/98 praying therein to dismiss the O.A. as the same has become infructuous in view of the facts as stated above.

3. Counsel for the applicant on the other side has submitted that even though, applicants have been dismissed from service

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but none-the-less their claim for subsistence allowance for the period from the date of suspension to the date of R would still survive, till R dismissal. They would be entitled to subsistence allowance. In para-9 of the O.A. applicant has specifically stated that he has not been paid the subsistence allowance. In reply to the said para, respondents have stated that the applicant since the date of suspension is not attending to office which is a condition precedent for getting subsistence allowance. The applicant sent an application by post for subsistence allowance which was received by the respondent on 19.06.1998 but he was required to fill up the Standard Form No.3 which he did not filled up properly. Therefore, the subsistence allowance was not receive by the applicant despite the said amount had been arranged from 10.02.1998 to 31.08.1998. The same stand is taken in the other O.As as well.

4. We have heard both the counsel and perused the pleadings as well.

5. As far as challenge to the suspension order is concerned once the applicants have been dismissed from service definitely that makes these O.As infructuous to that extent as ultimately applicants have already challenged their dismissal orders by filing different O.As. Therefore, as far as the reliefs with regard to quashing of the suspension order and payment of full pay and allowance is concerned that has become infructuous. However, with regard to the subsistence allowance though

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respondents have stated that they had arranged the amount and the same was not received by the applicants, the position has been disputed by the applicants counsel. Therefore, we think it would be best to give a direction to the respondents to verify the facts and to see whether applicants have filled up the required form or not in accordance with law and whether they have been given the subsistence allowance so far or not. Applicants are directed to report to respondent No.2 after 3 months from the date of receipt of a copy of this order and in the meantime respondents shall verify the position and in case the subsistence allowance has not been paid to the applicants even though it is payable to them. They shall arrange the said payments and make the payment to the applicants within 4 weeks thereafter in accordance with existing law and instructions on the subject. In case, respondents feel that applicants are not to be paid any amount they shall pass a speaking and reasoned order thereon within the said period under intimation to the applicants.

6. With the above directions, these all the three O.As are disposed off with no order as to costs.