

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 358 of 2001

Allahabad this the 11th day of July, 2001

Hon'ble Mr.S. Dayal, Member (A)
Hon'ble Mr.S.K.I. Naqvi, Member (J)

Jawahar Lal Choubey, Son of Bishwanath Choubey,
resident of Qr.No.1369(C) Manasnagar Colony,
Mughalsarai, District Chandauli, U.P.

By Advocate Shri S.K. Dey,
Shri S.K. Mishra

Applicant

Versus

1. Union of India through the General Manager,
Eastern Railway, Fairlee Palace, 17 Netajee
Subhas Road, Kolkotta-1.
2. The Divl.Railway Manager, E.Rly., Mughalsarai
District Chandauli, U.P.
3. The Senior Divisional Personnel Officer,
Eastern Railway, Mughalsarai, Chandauli U.P.

Respondents

By Advocate Shri Prashant Mathur

O_R_D_E_R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed for
setting aside the order dated 16.08.00 and for
a direction to the respondents to enhance the
amount of subsistence allowance on account of
continuation of applicant's suspension beyond
three months.

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2. We have heard learned counsel for the applicant-Shri S.K. Mishra and learned counsel for the respondents-Shri P. -Mathur.

3. Learned counsel for the applicant has drawn attention to para-1342 A of Indian Railway Establishment Code Volume II, which reads as follows:

"1342(F.R. 53) Pay during suspension-(1) A Railway servant under suspension or deemed to have been placed under suspension by an order of the competent authority shall be entitled to the following payments, namely-

(a) A subsistence allowance at an amount equal to the leave salary which the Railway servant would have drawn if he had been on leave on half average pay or on half pay and in addition dearness allowance, if admissible, on the basis of such leave salary.

Provided that where the period of suspension exceeds 3 months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first 3 months as follows;

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the railway servant.

(ii) the amount of subsistence allowance may be reduced by a suitable amount not exceeding 50 per cent of the subsistence

allowance admissible during the period of the first three months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the railway servant.

(iii) the rate of dearness allowance will be based on the increased or, as the case may be, decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above."

4. Learned counsel for the respondents mentions that the representation of the applicant dated 19.07.00 has been rejected by order dated 16.08.00 mentioning that no grounds were found to enhance the subsistence allowance.

5. We find from the provision of para-1342 of Indian Railway Establishment Code Vol.II that there is provision that for increase of the amount not exceeding 50% of the subsistence allowance, if period of suspension has been prolonged for reasons, to be recorded in writing, which are not attributable to the railway servant.. The order gives no reasons for not allowing the enhancement of subsistence allowance. The provision of para-1342 of Indian Railway Establishment Code Vol.II permit increase or reduction in amount of subsistence allowance depending on whether a suspension has been prolonged due to the reasons, to be recorded in writing, not directly attributable to the railway servant or otherwise.

The respondents have not passed the orders in ~~case~~

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accordance with the provisions of para-1342 of I.R.E.C. Vol.II. Therefore, the order dated 16.08.00 is set aside and the respondents are directed to decide, if not decided so far, the representation dated 19.07.2000 afresh, within a period of two months from the date of communication of this order. There shall be no order as to costs.

S. M. M.
Member (J)

H. A. M.
Member (A)

|M.M. |