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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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O.A. No. 970 of 1987

B.C. Gaur Applicant.

Versus

The Divisional Railway Manager,
Northern Railway, ALLAHABAD
and another Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, VC)

The applicant while working as Guard-A Special at Allahabad was sent to undergo periodical medical re-examination on 4.3.1985. He remained under the observation of a Railway Doctor namely Dr. S.G. Basu who was the authorised medical examiner in the Northern Railway Hospital for the periodical Medical re-examination.

2. The applicant's claim is that to regularise the period of absence from duty from 4.3.1985 to 17.11.1986 as spent on duty on account of periodical medical reexamination on administrative grounds and release the amount of leave due. According to the applicant, the period was not treated to be on leave. The respondents in their ^{reply} have stated that he was found to be suffering from cataract. This was stated by the Divisional Medical Officer vide his certificate dt. 30.3.1985, wherein, the applicant was declared unfit to perform his duties. The applicant was informed about it by letter dt. 7.5.1985 issued by the Divisional Personnel Officer, N.E. Railway, Allahabad. The applicant was granted leave from 30.3.1985 to 4.7.1985 on average pay and from 5.7.1985 to 7.10.1985 on half average pay and was advised to himself operated upon for cataract.

The applicant has denied that he has not received any such letter dt. 30.3.1985 and for that very purpose he prayed that the original record may be produced by the Railway Administration. The relevant rules regarding this very point is under para-525 of the Indian Railway Medical Manual, 1981 which ~~is~~ reads as Under;

- 1. The period for which an employee is absent from duty for periodical Medical reexamination may be treated as mentioned below;
 - (i) Time spent in journey to and from the actual Medical examination may be treated as duty.
 - (ii) Time taken by the Divisional Medical Officer to come to a decision in the matter may be treated as duty. In case, where a Divisional Medical Officer or other Medical Officer is not quite sure of the decision to be taken, he makes reference to the Chief Medical Officer, in such case the period up to the announcement of the decision may be treated as duty.
- 3. Accordingly, this application deserves to be allowed in part and the respondents are directed to re-consider the matter and decide the question of duty in accordance with para-525 and letter No. 515-E/Q-4/EMC-2-85 dt. 21.11.1985 issued by the General Manager, Northern Railway with reference to treatment of period of absence of Railway Employee sent for periodical medical examination. A decision, in this behalf shall be given within 2 months from the receipt of the copy of this order and after the decision, if the applicant succeeds, his salary will be revised and he ~~will be~~ has been given arrears ⁱⁿ for another 2 months. The

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application is disposed of with the above observations.

Parties to bear their own costs.

J. M. S. Jayawardene
Member (A)

L.
Vice-Chairman

Dt. 28.11.1991

(n.u.)