

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALIABAD

Dated: This the 15th day of January, 1997

CORAM : Hon'ble Mr. S. Das Gupta AM  
Hon'ble Mr. T. L. Verma JM

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ORIGINAL APPLICATION NO. 212/92

Nanho Prasad son of Jangi Ram  
aged about 52 years, r/o 98-A Loco Colony  
Chopan, district Sonbhadra. - - - - - Applicant

C/A Sri O. P. Gupta

Versus

1. Union of India through Railway Board,  
Ministry of Railways, govt. of India,  
New Delhi.

2. General Manager, Eastern Railway,  
Calcutta.

3. Divisional Railway Manager,  
Dhanbad division, Eastern Railway,  
Dhanbad.

- - - - - Respondents

C/R Sri A. V. Srivastava.

ORDER

By Hon'ble Mr. S. Das Gupta AM

This application has been filed under  
~~section 1985~~ seeking direction to the respondents

SL.

to grant to the applicant officiating allowance of the post of Coal and tool Checker for the period from 1.1.1971 to 31.12.1971. Further directions prayed for are that the respondents be directed to pay overtime and Night duty allowance to the applicant for the period 21.4.1964 to 25.4.1973 and from 26.4.1973 till date and also to correct the applicant's seniority and grant him seniority on the post of Coal and tool Checker with effect 21.4.1964. There are several other reliefs prayed for in the application.

2. At the out-set, when the case was being heard, we noticed that the application suffers from multiplicity of reliefs, which do not follow with from each other. The learned counsel for the applicant stated that he would press only for relief of officiating allowance on the post of Coal and tool Checker w.e.f. 1.1.1973 and the case was heard accordingly.

3. Admitted position of this case is that the applicant who was posted as Oil man in Chopan was made to work also as Coal and Tools Checker for the period from 21.4.1964 to 25.4.1973 on administrative exigency. He had been representing for two decades for being granted officiating allowance and finally by order dated 9.5.1988, the applicant's grievance was partially redressed. On further representation, an order dated 13.6.1988 was issued granting higher salary to the applicant for the period he had worked as Coal and tool checker. However, in that order, no officiating allowance was ~~paid~~ for the period from 1.1.1971 to 31.12.1971. For this period the applicant seeks officiating allowance, which is the only relief that we are considering.

4. The position taken by the respondents in the counter affidavit is that due to nonavailability of post from 1.1.1971 to 31.12.1971, applicant was not entitled to any officiating allowance and therefore, no payment could not be made to him.

5. We have heard the learned counsel for both the parties. In our view, position taken by the respondents, denying the officiating allowance from 1.1.1971 to 31.12.1971 is untenable. The order dated 9.5.1988 itself suggests that for the relevant period, post was <sup>to be</sup> created to give relief to the applicant. If, in pursuance of this order, applicant could be given relief for the entire period, it is not clear to us why they could have excluded this short period and denied the applicant relief for this period. Admittedly the applicant had worked during this period also as Coal and toll checker and therefore, he is entitled to the officiating allowance for this period also. In case no post was available, it would be incumbent upon the respondent to create supernumerary post.

6. In view of the foregoing, we dispose of this application with the direction to the respondents to pay to the applicant officiating allowance for the period from 1.1.1971 to 31.12.1971 within a period of 3 months from the date of communication of this order. Parties shall bear their own costs.

*J. Bhawne*  
Member (J)

*W. S.*  
Member (A)