

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 22nd day of May, 2002.

Original Application No.371 of 1995.

CORAM :-

Hon'ble Mrs. Meera Chhibber, J.M.

J. P. Pandey S/o Late Sarju Prasad Pandey,
R/o Alinagar, P.O. Mughalsarai,
District Varanasi.

(Sri SK Dey/Sri SK Mishra, Advocates)

..... .Applicant

Versus

1. Union of India through the General Manager,
Eastern Railway/Calcutta-1.
2. Smt. Munni Singh,
Senior Medical Superintendent,
Eastern Rly/Mughalsarai.
3. Sr-Divisional Personnel Officer, Eastern Rly/
Mughalsarai.

(Sri AK Gaur, Advocate)

..... .Respondents

O R D E R (O_r_a_l)

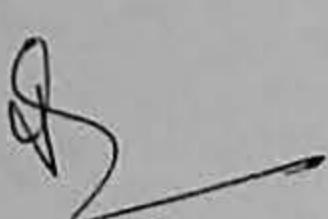
By Hon'ble Mrs. Meera Chhibber, J.M.

By this OA the applicant has sought for the following
reliefs :-

- (a) That this Hon'ble Court may be pleased to direct the respondents to make payment of his amount of gratuity (DCRG) with interest at the rate of Rs. 17% per annum fix up responsibility of concerned official.
- (b) That the Court may be pleased to direct the respondents to make payment packing and due wages for the period 15-10-95 and from 18-10-94 to 29-10-94 with due interest.
- (c) any other relief or reliefs to which he is entitled. May also be awarded to him with costs.

2. During the arguments, the applicant's counsel ^{deful} himself stated that the Medical Superintendent sanctioned medical leave from 15-10-1994 to 29-10-1994. It is well settled that the leave cannot be taken as a matter of right and since the competent authority had refused to sanction leave, the applicant can't not get wages for the said period especially when the leave was not sanctioned. As far his relief with regard to gratuity is concerned, it is seen that the Senior Medical Superintendent had issued a letter to the Senior Divisional Personnel Officer mentioning therein that Shri J.P. Pandey, the applicant had not handedover the General Imprest Register, Blood Taking Register, Funeral Register and Money and Patient Registers to his reliever and since the General Imprest is Government money and the proper expenditure was not known at the time of the applicant's superannuation, he had requested the authorities to keep back Rs.15000/- from the applicant's settlement dues till further orders. The applicant, however, drew my attention to the representation given by him which is annexed as Annexure-1 to the OA wherein he has categorically mentioned that the said files were taken away by the Vigilance Department. Therefore, the said files may be seen from the Railway Board, Vigilance Department on requisition. Since the applicant had superannuated on 31-10-1994 and the OA was filed in the year, 1995 i.e. immediately thereafter, it seems that nobody bothered further to find about the said files nor any final decision was taken in the matter till date.

3. I have heard counsel for the parties and perused the pleadings. Since the applicant has categorically stated that the said files due to which his amount of



Rs. 15000/- was withheld were taken over by the Railway Board Vigilance Department, the respondents ~~should~~ ^{could} have very well collected the files from the Vigilance Deptt. and after verifying the contents thereof ~~should~~ ^{could} have released the amount to the applicant in case it was found due to him. A thing which is not in possession of the applicant, definitely cannot be produced by him.

4. In view of the facts as stated above, I think that the ends of justice would be met in case a direction is given to the respondents to write to the Railway Board, Vigilance Department to see if the said files were taken by them from the applicant and in case the said files are with the Vigilance Deptt. to get them verified within a period of four months by sending some responsible officer with a copy of this order and in case all the entries are in order and nothing is pending against the applicant, the amount of Rs. 15000/- should be released in favour of the applicant within a period of one month thereafter. However, on verification of the said files if it is found that some amount is payable by the applicant, a speaking and reasoned order should be passed by the respondents deducting the said amount from Rs. 15000/- ^{1/2} after adjustment, if any amount still becomes due to the applicant, the same must be paid. With the above direction the DA is disposed of. No costs.

Member (J)

Dube/