

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17TH DAY OF MAY, 2002

Original Application No. 817 of 1995

CORAM:

HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

HON. MR. C.S. CHADHA, MEMBER (A)

Jhandoo Ram, Son Sri sundar Singh

Working as Chowkidar under Inspector  
of Works and N.E. Railway, Kashipur.

... Applicant

(By Adv: Shri C.P. Gupta)

Versus

1. Union of India through General Manager,  
N.E. Railway, Gorakhpur.
2. Divisional Railway manager,  
N.E. Railway, Izat Nagar.
3. Divisional Personnel Officer  
N.E. Railway, Izat Nagar.

... Respondents

(By Adv: Shri G.P. Agrawal)

O R D E R (Oral)

JUSTICE R.R.K. TRIVEDI, V.C.

This application u/s 19 of A.T. Act 1985, has been filed for a direction to the respondents to pay arrears of salary for the post of Chowkidar to the applicant for the period 16.6.1990 to 19.11.1991. It may be mentioned here that respondents through Shri G.P. Agrawal advocate were given time on 4.8.97 to file C.A within four weeks. However CA could not be filed despite last opportunity given, by order dated 4.8.97. On 19.9.97 order was passed to list the case for hearing. Thereafter the case could not be listed for hearing for various reasons. Though more than five years have passed no counter has been filed.

The application is accordingly decided though Shri G.P.Agrawal cocounsel for respondents again requested for time to file counter which is rejected for the reasons stated above.

The facts in short are that applicant was working as Chowkidar under P.W.I, Fatehgarh. By order dated 23.5.1990 applicant was transferred from Fatehgarh to Lalkuan. However at Lalkuan applicant was not allowed to join duty. He was returned with the letter dated 11.10.1990 of P.W.I Lalkuan, stating that no post of Chowkidar is vacant under him and applicant may be posted elsewhere. Even after the letter dated 11.10.1990 that there is no vacant post at Lalkuan, The order of transfer dated 23.5.1990 was maintained by order dated 24.10.1990. ~~After~~ Applicant was kept in waiting; thereafter order was passed on 28.1.1991 (Annexure 7) by which applicant was transferred to Kashipur. At Kashipur however applicant reported to join duty on 13.11.1991. He remained absent from 7.2.1991 to 13.11.1991. Applicant was allowed to join duty at Kashipur. Thereafter he started drawing his salary.

The question is whether applicant is entitled for the salary for the period 16.6.1990 to 19.11.1991. The facts stated above are uncontroverted. It is clear that under the transfer order dated 23.5.1990 applicant was relieved for joining <sup>at</sup> Lalkuan where he was not allowed to join for want of vacancy. The order of transfer however was maintained. It was modified only on 28.1.1991 when applicant was transferred to Kashipur where he joined on 13.11.1991. From the aforesaid facts it is clear that from 16.6.1990 to 6.2.1991 applicant is entitled for salary. However as he remained absent from 7.2.1991 to 13.11.1991 he is not entitled for salary as he did not join duty though orders were passed and he had knowledge



of the same.

The OA is accordingly allowed in part. The respondents are directed to pay salary to the applicant from 16.6.1990 to 6.2.1991. However for the period 7.2.1991 to 12.11.1991 option is given to adjust <sup>against the leave,</sup> after <sup>due to</sup> adjusting leave <sup>remaining period</sup> the applicant, may be treated <sup>as</sup> on leave without pay. This orders shall be given effect within three months. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 17th of May, 2002

Uv/