

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No. 626 of 1999

Dated: This the 05th day of March, 2004

HON'BLE MR. JUSTICE S.R. SINGH, V.C.
HON'BLE MR. S.C. CHAUBE, A.M.

Krishan Kumar Mishra S/o late Ram Sajewan Mishra;
aged about 48 years; resident of Railway Quarter
No. 35, Railway Colony, Mandah - Road Station;
Mandah; District- Allahabad.

..... Applicant

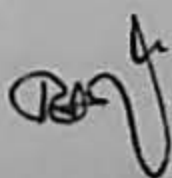
By Advocate : Shri S.S.Sharma.

VERSUS

1. Union of India owning and representing the Northern Railway--Notice to be served upon--
The Divisional Railway Manager, Northern Railway, Nawab Yusuf Road, Allahabad.
2. The Senior Divisional Mechanical Engineer,
Northern Railway, Divisional Railway Manager's
Office, Nawab Yusuf Road, Allahabad.
3. The Senior Section Engineer (Carriage & Wagon),
Northern Railway, Cheeki, Allahabad.

..... Respondents.

By Advocate : Shri G.P. Agarwal



..... pg 2/-

O R D E R (Oral)

By Hon'ble Mr. Justice S.R.Singh, VC


The applicant herein has prayed for issuance of direction to the respondents not to recover Rs.1128/-per month from his salary and to quash the order of recovery passed against the applicant. It is not disputed that the applicant was absent from duty w.e.f. 25.3.1995 to 03.5.1996 i.e. for a period of one year, one month and ten days on account of being hurt while on duty. A perusal of notings, annexed as Annexure C.A.-I, would indicate the Divisional Personal Officer, Northern Railway, Allahabad sanctioned 120 days leave on full pay from 25.3.1995 to 22.7.1995 and the remaining period of absence was regularised on half pay. The learned counsel for the applicant has contended, relying upon certain Railway Board's circulars annexed as Annexure R.A.-I, that the case of the applicant merited sanction of hospital leave beyond a period of 120 days on leave salary equal to leave salary while on leave on average pay and for that purpose, the Divisional Railway Manager alone was empowered to pass appropriate orders. It is not disputed that so far as the Divisional Personal Officer is concerned he was not competent to grant hospital leave beyond a period of 120 days on leave salary equal to leave salary while on leave on average pay and equal to leave salary during half pay leave for the remaining period of any such leave and if the applicant was not granted leave salary while on leave on average pay beyond 120 days, he ought to have moved a representation to the Divisional Railway Manager for passing appropriate orders in that regard.

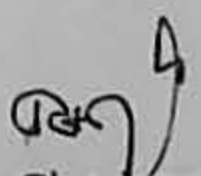
2. In the circumstances of the case, therefore, the respondents cannot be restrained from making recovery of the excess payment paid to the applicant but at the same time the applicant, if so advised, may file a representation to the Divisional Railway Manager for grant of leave beyond 120 days and in case the Divisional Railway Manager finds it a fit case for sanction

of hospital leave beyond a period of 120 days on leave salary while on leave on average pay, the applicant would, in that event, be entitled to refund of the amount recovered from his salary.

3. We, therefore, dispose of the O.A. with a direction to the respondent that in case applicant prefers a representation praying therein for sanction of hospital leave beyond a period of 120 days on leave salary equal to leave salary and while on leave on average pay, the Divisional Railway Manager, North Central Railway, Allahabad shall consider the representation and take appropriate decision thereon in accordance with law within a period of two months from the date of receipt a copy of the order alongwith representation. It is also made clear that the applicant may, in his representation, seek re-schedulement of instalments keeping in view the fact that he happens to be a Class III employee.

4. There will be no order as to costs.


Member A


Vice-Chairman

Brijesh/-