

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 09TH day of MARCH 2006.

Original Application No. 593 of 2000.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Sri Amar Nath Sharma, S/o Sri R.N. Sharma,
R/o Village Gaura, PS Mariyahu,
Distt: Jaunpur

.....Applicant

By Adv: Sri S.L. Kushwaha

V E R S U S

1. Union of India through Secretary,
Railway Ministry, Rail Bhawan,
NEW DELHI.
2. Financial Advisor and Chief Accounts Officer,
N.E. Railway,
GORAKHPUR.
3. Senior Divisional Accounts Officer,
North Eastern Railway,
SAMASTHIPUR.

.....Respondents

By Adv: Sri A.K. Gaur

O R D E R

Payment of subsistence allowance is the claim in this OA. The applicant was missing from 1980 and surfaced only after years. During the intermediate period, he had also superannuated and his provisional pension, etc., had been paid in 2002.

2. The applicant was kept under suspension w.e.f. 15-09-1980 and it is the same period when he went underground. His retirement was on 31-07-1994.

Neither the applicant nor the respondents in their

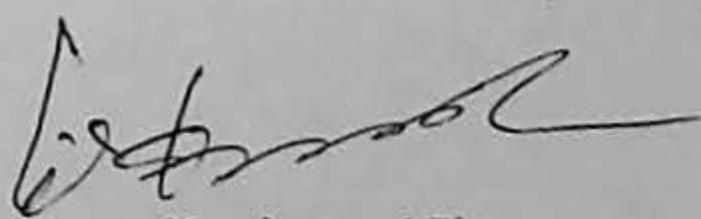
pleadings indicated the total period of suspension. The applicant claims subsistence allowance during the period of his suspension, while the respondents, referring to Rule 1342 of R-II contend that since certain formalities were to be performed (e.g. being within the Headquarters and certifying that the applicant was not gainfully employed), the respondents did not pay any subsistence allowance and again, the relevant files were with the C.B.I.

3. Arguments were heard and the pleadings perused. The fact is that there were some investigation going on against the applicant and the applicant was absconding for a substantial period. It was during this period that the applicant was kept under suspension. Subsistence allowance is paid for sustenance of the government employees and their families during the period of suspension but the same is subject to certain conditions. The applicant should be available to join duties immediately on revocation of suspension. He must report to the Headquarters periodically and to render a certificate to the effect that during the period of suspension he was not gainfully employed. Thus, it is only when certain positive action is carried out by the suspended employee, that he becomes entitled to the subsistence allowance. Admittedly, nothing has been done in that regard by the applicant. Obvious, as he was underground.

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4. Thus, when there is a failure on the part of the applicant in fulfilling his obligation in furnishing necessary non employment certificate and attendance as and when wanted by the respondents, there is no question of payment of subsistence allowance. It is also not known whether the period from Sep. 1980 had been treated as duty by the respondents for the purpose of working out the pension payable to the applicant. In case the period from Sep. 1980 onwards had been treated as duty, the respondents, by taking necessary certificate, at their discretion, after waiving the formalities to be fulfilled by the applicant during the period of suspension, consider the grant of any subsistence allowance. This is purely at the discretion of the respondents, as it is for them to consider waiver of the obligations on the part of the applicant to be fulfilled before drawal of the subsistence allowance.

5. With the above, the OA is disposed of but no order as to costs.



Member (J)