

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

PRESENT:

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

Allahabad this the 22nd day of January, 2009

ORIGINAL APPLICATION NO. 743 OF 2003

K.N.Sharma, retired Section Engineer (PWI)
Construction under Divisional Railway Manager,
Jhansi, R/o House No. 162, Deen Dayal Nagar,
Nandepur, Jhansi.

...Applicant.

By Advocate : Shri A.D. Prakash/H.P. Pandey.

Versus

1. Union of India through the General Manager, N.C.R., G.M's office, Allahabad.
2. D.R.M. N.C.R., Jhansi Division.
3. Chief Medical Director, Central Railway Hdg's Office, CST, Mumbai.
4. Chief Medical Superintendent, N.C.R., Jhansi.
5. Deputy Chief Engineer (Construction), N.C.R., Jhansi.

...Respondents.

By Advocate : Shri G. Choudhary

O R D E R

The applicant was promoted as Section Engineer, Jhansi Division of the Central Railway in the year 1979 and continued to work there till his superannuation on 31.8.2001.

2. He sustained an injury while on duty on 7.7.2000 when he fell on track and damaged his left ankle at Gwalior Station. He was sent to Divisional Railway Hospital at Jhansi, where he was admitted, but as claimed by him, he was not given proper treatment while undergoing severe pain, therefore, he left the Railway Hospital to take private treatment at Tripathi Maternity and Fracture



Hospital at Jhansi. After surgery his left ankle joint most fused on 7.7.2000 and he was relieved from private Nursing Home on 7.8.2000, after which he continued to be under regular treatment in Railway Hospital, Jhansi till 3.5.2001. He was issued a fitness certificate from 7.7.2000 to 3.5.2001 by Railway Hospital, Jhansi recommending him for a light job for three months.

3. The applicant retired from service w.e.f. 31.8.2001, but his salary for the period 7.7.2000 to 3.5.2001 was held up for want of IOD (Injured on duty certificate). He approached the medical authorities to issue the necessary certificate, but he was informed by Chief Medical Superintendent vide letter dated 5.9.2001 that the period from 7.7.2000 to 7.8.2000 was treated as absence and 8.8.2000 to 3.5.2001 as injured on duty. This was based on letter dated 31.8.2001 by the Chief Medical Director. The applicant has filed this O.A. for quashing both the abovementioned letters dated 31.8.2001 and 5.9.2001. He has also sought the relief of being treated as IOD for the period 7.7.2000 to 7.8.2000 and the salary for the same.

4. After several representations to the concerned authorities the applicant was paid an amount of Rs. 1,49,000/- as arrears of salary on 2.2.2002. It is the contention of the applicant that relevant Rules provides for treatment in a Private Hospital provided information is given to the relevant authorities and he had accordingly done so.

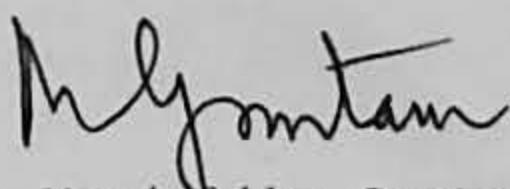
5. The respondents in the Supplementary Counter Affidavit, filed by them, have stated that in spite of all facilities being available at Jhansi Hospital, the applicant chose to go to a Private Hospital for treatment and returned back to the Railway Hospital on 8.8.2000, therefore, the period from 7.7.2000 to 7.8.2000, the applicant was

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declared as LAMA (Left against Medical advice). Hence, this period could not be treated as IOD in general duty, but was treated as absent. The applicant himself applied for leave for the above period. Leave was sanctioned by the competent authority and payment of salary has also been made to him. Therefore, the question of paying him again for the same period does not arise. The applicant, on the other hand, has tried to give a weak explanation that due to typing error only salary was written in place of leave salary.

6. I have heard both counsel and perused the records on file. It is clear that the salary for the period from 7.7.2000 to 7.8.2000 has been paid as per photocopy annexed at CA-3. All other arrears due to the applicant have already been paid to him with some delay on 2.2.2002. Since, the relief sought by the applicant has already been given to him by the department concerned, therefore, the present O.A. has become infructuous.

7. In view of the above, the O.A. is dismissed as infructuous. No costs.



{Mrs Manjulika Gautam)
Member-J

Girish/-