

Coram : Hon'ble Mr.P.H.Trivedi

: Vice Chairman

Hon'ble Mr.P.M.Joshi

: Judicial Member

13/6/1988

Mr.G.A.Pandit learned advocate for the applicant present. Mr.B.R.Kyada learned advocate for the respondent requests one week's time to file reply. Allowed. So far as interim relief in para-8 (b) is concerned, respondents are directed not to implement the impugned order at Annexure 'A' dated 6/4/1988 until the decision in the case. So far as interim relief in para 8 (a) is concerned, this will depend upon merits of the case. The case be posted on 28/6/1988 for further direction before Registrar.



(P.H.Trivedi)  
Vice Chairman



(P.M.Joshi)  
Judicial Member

a.a.bhatt

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Shri D.S. Peter,  
Diesel Assistant, Loco,  
Western Railway,  
Surendranagar.

.... Petitioner

( Advocate : Shri G.A. Pandit )

Versus

1. Union of India,  
through The General Manager,  
Western Railway,  
Churchgate,  
Bombay.

2. Divisional Railway Manager, (Estt),  
Western Railway,  
Rajkot.

3. Assistant Loco Forman,  
Western Railway,  
Surendranagar.

.... Respondents.

( Advocate : Shri B.R. Kyada )

Coram : Hon'ble Mr. P.M. Joshi : Judicial Member

31/03/1989

O R A L - O R D E R

Per : Hon'ble Mr. P.M. Joshi : Judicial Member

The petitioner, Shri D.S. Peter working as Diesel Assistant, Loco, at Surendranagar, (Western Railway), has filed this application on 27.4.1988 under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the validity of the order dated 7.4.1988 whereby he has been granted half average pay leave instead of full pay for the period 10.10.1987 to 8.2.1988. According to him, when he was injured during the course of employment the period of leave while he was in the hospital for treatment, should be regarded as full pay. He therefore, prayed that the Respondents-Railway-

...2/-

Administration be directed to treat the leave from 10.10.1987 to 8.2.1988 as on full pay.

Mr.G.A. Pandit and Mr.B.R. Kyada, the learned counsel for the petitioner and the respondents respectively are heard. The stand of the respondents is that the Divisional Railway Manager has modified the impugned order by passing a fresh order vide Memorandum No. EL/D/184, dated 13.7.1988 which reads as under :

WESTERN RAILWAY

No. EL/D/184

Divisional Office,  
Rajkot, Dt.13.7.1988.

Memorandum

Sub : - Workman's Compensation Act -  
Compensation under W.C. Act  
Shri D.S.Peter DL-Asstt,  
Loco, SUNR.

Ref : - This office Memo No. even of  
7.4.88.

Upon reconsideration, sanction is accorded to treat the period from 10.10.1987 A.N. to 8.2.88 as hospital leave on full average pay, instead of half average pay sanctioned vide memo cited above, in favour of the above named who was injured while on duty on 10.10.1987 A.N.


For DRM (E) RJT.

Copy to : - DAO RJT, Leave file, Memo file,  
ALF SUNR, CC/EPB for information  
& necessary action. ( 2 copies )  
or Court file No. E/649/5/57 CAT).

On perusal of the aforesaid order, it could be well said that the grievance of the petitioner has been fully redressed as the petitioner has been now granted full average pay. Mr.G.A. Pandit the learned counsel for the petitioner states that the respondents be directed to

make full payment in terms of aforesaid order dated 13.7.1988. It is submitted by Mr.B.R. Kyada, that by the time, the petitioner might have received his legitimate dues. But in order to avoid any room for grievance, the respondents are directed that they should make full payment to the petitioner in terms of the order dated 13.7.1988 within a period of one month from the date of this order, if not done so far.

With the aforesaid directions the application stands disposed of with no order as to costs.

  
( P.M. Joshi )  
Judicial Member

AIT