

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 333 of 1987.

Date of decision : March 27, 1990.

P.V.Rao.

...

Applicant.

Versus

Union of India and others..

Respondents.

For the applicant ...

M/s. B.L.N. Swamy,
B.V.B. Das, Advocates.

For the respondents ...

Mr. L. Mohapatra,
Standing Counsel (Railways)

.....

C O R A M:

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A ND

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *No*
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (J) For the present purpose, material facts may be stated thus. Admittedly, the applicant was a Railway servant and there was a departmental proceeding initiated against him. As that departmental proceeding prolonged, he approached the Hon'ble High Court of Orissa and that writ petition stood transferred to this Tribunal which was registered as Transferred Application No. 15 of 1986.

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This Tribunal by its order dated 24.7.1986 (copy at Annexure-1) directed to conclude the enquiry within three months from the date of receipt of the judgment delivered in that case. After that judgment, the present application has been filed on the allegation that the enquiry not having been concluded within the time given by this Tribunal, it cannot proceed and he (the applicant) should be given the salary for the period covered under the judgment delivered in T.A.15 of 1986.

2. The respondents in their counter have stated that the enquiry has been dropped and the entire period from 6.5.1975 to 30.6.1982 during which the applicant did not work has been treated as leave due to him. It has further been averred in the counter that whatever was due to him has been paid to him and a major part was treated as leave without pay.

3. We have heard Mr. B. L. N. Swamy, learned counsel for the applicant and Mr. L. Mohapatra, learned Standing Counsel for the Railway Administration. It has been contended by Mr. Swamy that in the departmental proceeding the applicant took the stand that he was ~~not~~ really not unauthorisedly absent. This position could also be deduced from the judgment delivered in T.A.15 of 1986. If the departmental proceeding was dropped, the necessary corollary would be that it was not proved that the applicant was unauthorisedly absent. Apart from that, when the applicant had been

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approaching Courts and Tribunals for reliefs and this Tribunal in T.A.15 of 1986 specifically ordered to pay the applicant his dues, the only conclusion that can emerge is that the applicant should be treated as if he were on duty during the period from 6.7.1975 to 30.6.1982 i.e. the date on which he retired on superannuation. Accordingly, he should be paid the full salary minus the salary for the whole or part of that period. The payments be made within four months from the date of receipt of a copy of this judgment.

4. This application is accordingly disposed of leaving the parties to bear their own costs.

Ernest 27.3.90
Vice-Chairman

Mr. Esh 27.3.90
Member (Judicial)

