

(11)

11-5

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.81 of 1987.

Date of decision : April 29, 1988.

Sri Himangsu Sekhar Mukherjee,
s/o late Kalipada Mukherjee,
Resident of village Nilkutidanga,
P.O.Purulia, Dist.Purulia,
West Bengal.

At present working as
Deputy Station Superintendent,
Birmitrapur Railway Station,
P.O.Damdapara, Dist-Sundargarh.

...

Applicant.

Versus

1. Union of India, represented through
General Manager, South Eastern Railway,
At/P.O.Calcutta, West Bengal.
2. Divisional Railway Manager,
Chakradharpur, S.E.Railway,
Dist.Singhbhum, Bihar.
3. Senior Divisional Operating
Superintendent, Chakradharpur,
S.E.Railway, Dist.Singhbhum (Bihar).
4. Divisional Personnel Officer,
Chakradharpur, S.E.Railway,
Dist.Singhbhum (Bihar).
5. Senior Divisional Transportation
Inspector, Jharsuguda, S.E.Railway,
Dist.Sambalpur. ... Respondents.

For the applicant ... M/s.J.K.Misra,
N.C.Misra, Advocates.

For the respondents ... Mr.Ashok Mohanty, Standing Counsel
(Railways)

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1. Whether reporters of the 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.
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C O R A M:

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

A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

J U D G M E N T

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order contained in Annexure-1 treating the period of leave of the applicant from 26.12.1985 to 13.8.1986 as leave without pay on an allegation that the applicant ^{was} unauthorisedly absent from duty.

2. Shortly stated, the case of the applicant is that the applicant is a Station Master and remained absent from duty from 26.12.1985 to 13.8.1986 and this period of absence was treated by the competent authority as unauthorised and therefore it was directed that for this particular period the applicant would not be entitled to any pay. Being aggrieved by this order the applicant has come up before this Bench with the aforesaid prayer.

3. In their counter, the respondents maintained that no illegality has been committed by the competent authority as the applicant had actually remained absent unauthorisedly and therefore, the competent authority had no other option but to treat the said period as unauthorised absence which would necessarily result in depriving the applicant of his monthly emoluments.

4. We have heard Mr.J.K.Misra, learned counsel for the applicant and Mr.Ashok Mohanty, learned Standing Counsel for the Railway Administration at some length. We have also perused the averments in the application under section 19 of the Act and the averments made in the counter. We have also given our anxious consideration the arguments advanced at the Bar and especially ^{the} a stiff opposition of Mr. Mohanty to the extent that if this application is allowed then there would be chaos in the administration and nobody would ever care to make application for grant of leave. We agree with Mr. Mohanty that such attitude of an employee should not be encouraged. But at the same time we cannot close our eyes to the judicial pronouncements made in the highest forum that once leave is due to a particular employee the benefit should be given in his favour. We were not in a position to ascertain from counsel for both sides whether any leave was due to the applicant. However we would direct that if leave of any nature is due to the applicant, during this period, he should be granted such leave including medical leave/half pay leave and if there is no leave due to the credit of the applicant then no relief could be granted to him.

5. We do hereby direct the competent authority to calculate leave due to the applicant and accordingly it should be granted in his favour entitling him ^{to} the emoluments as per the Rules and it should be paid to the applicant within three months from the date of receipt of a copy of this judgment.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

[Signature]
.....29.4.88.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

g agree.



[Signature]
.....29.4.88.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
April 29, 1988/S.Sarangi.