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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A.No. 526/95

Date of Order : 19.2.1998

Suraj Bhan s/o Sh. Pratap Singh, working as Jeep Driver under Deputy Chief Engineer (Construction)-II, Northern Railway, Jodhpur, r/o Near Man Sagar, Mahamandir, Jodhpur.

... Applicant.

VERSUS

1. Union of India through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. Chief Administrative Officer (Const.), Northern Railway, Kashmiri Gate, Delhi.
3. Deputy Chief Engineer (Const.), II, Northern Railway, Jodhpur.

... Respondents.

Mr. Y.K. Sharma, Counsel for the Applicant.

Mr. R.K. Soni, Counsel for the Respondents.

CORAM :

HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER
HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER.

O R D E R

(Per Hon'ble Mr. A.K. Misra)

The applicant has filed this OA with the prayer that the respondents be directed to arrange the payment of wages to the applicant for the period from 15.9.94 to 28.10.94 treating him to be on duty and respondents be further directed to arrange Travelling Allowance, Transfer Allowance and other incidental charges for the transfer of the applicant from one place to another and respondents be further directed to pay the interest on the aforesaid amount which is admissible to the applicant @ 12% per annum.

2. Notice of this OA was given to the respondents who have filed their reply in which the respondents have stated that as per the

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orders the applicant was to report to respondents No. 2 on 9.9.94 but the applicant reported for duty to respondent No.2 on 12.9.94 and applied for casual leave from 13.9.94 to 21.9.94. The applicant reported on 23.9.94 to respondent No. 2 but refused to take the letter addressed to SEN/C/Sambhar Lake. Thereafter, the applicant again turned up on 28.10.94 and took the letter and reported on duty on 29.10.94. Thus, the applicant in fact remained absent from duty from 13.9.94 to 28.10.94. The applicant has been paid wages from date i.e. 29.10.94 when he reported on duty but he is not entitled to wages for the period commencing from 13th Sept., 1994 to 28th October, 1994. The OA is, therefore, deserves to be rejected. The applicant has filed rejoinder reiterating its claim that he was on duty during the period he has been shown as absent from duty.

3. We have heard the learned counsel for the parties and gone through the record. Few facts which are available from various documents would help in deciding the controversy.

4. Vide letter dated 8th Sept., 1994 at Annex. A/3 the applicant was spared by Inspector of Works/Construction, Northern Railway, Sambhar Lake and was directed to report in the office of CAO/Const., Northern Railway, Kashmiri Gate, New Delhi for further posting order where the applicant reported on 12th Sept., 1994. On the same day the applicant applied for casual leave w.e.f. 13.9.94 to 21.9.94. This fact is clear from Annex. A/5 dated 16.9.94. The applicant after availing casual leave reported in the office of respondent No.2 on 23rd Sept., 1994 but refused to receive the posting order and left the office. Thereafter the applicant reported in the office of respondent No.2 on 28th October, 1994 and after receiving the posting order reported in the office of respondent No.3 on 29.10.94. This is the period which is in dispute in the instant case.

5. The learned counsel for the applicant has argued that the

applicant was transferred vide Annex.A/3 but was not granted any transfer TA or other connected allowances but he reported in the office of respondent No.2 then again without payment of any transfer grants the applicant was directed to report the respondents No.3. In absence of transfer grant he could not proceed and continue to report at Delhi in the office of respondent No.2. On the other hand it was argued that through out this period the applicant remained absent.

6. In our opinion there is nothing on record which may go to show that applicant was transferred from one place to another. The applicant was only directed to report to respondent No.2 for posting order, therefore, in our opinion, he was only entitled to allowances relating to official tour. There is also nothing on record to show that applicant reported in the office of respondent No.2 everyday from 23rd Sept., 1994 to 28.10.94. There is also nothing to show on record that while at Delhi the applicant moved any application to claim his transfer TA which might go to show that the applicant was waiting to receive transfer grants etc. at Delhi. In all the orders which are related to movement of the applicant, no specific order transferring him from one place to another has been mentioned. The applicant was given Railway passes by respective Railway authorities to perform the journey and the applicant by using these passes performed the journey and reported in compliance of the orders.

7. It was argued by the learned counsel for the applicant that in Railway passes word "transfer" has been written but in our opinion mere appearance of word "transfer" in railway passes would not confirm the situation that the applicant was transferred from one place to another. There is no specific order on record which can be interpreted as transfer order. Therefore, the claim of the applicant that he is entitled for transfer grants is not made out. Prayer in this respect is liable to be rejected.

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8. Since the applicant has not been able to establish that he remained on duty from 15th Sept., 1994 to 28th October, 1994, therefore, this period is to be treated as leave as per available title to the applicant. Annexure A/l also indicates that the competent authority has decided to treat the period w.e.f. 15.9.94 to 28.10.94 as leave due, if the applicant applies for the same. We do not see any unreasonableness or arbitrariness in this order. The applicant had reported to respondent No. 3 on 12th Sept., 1994 and proceeded on casual leave, therefore the applicant shall have to apply for leave for the period of absence in order to get pay and allowances for that period.

9. In our opinion, the claim of the applicant is devoid of any merits and is liable to be rejected. However, the applicant may claim emoluments for the period in question by moving an application for leave in terms of letter dated 29.6.95 Annex.A/l. The Railway authorities shall sanction leave to the applicant as per the leave title and pay the emoluments for that period within a period of 2 months from the date of receipt of application moved by the applicant. Parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)

Adm. Member

A.K. Misra
(A.K. MISRA)
Judl. Member

cpm

By (Signature)
CDR
24/5/98

SS/2
25/3/98

Part II and III destroyed
in my presence on 25/3/98
under the supervision of
Section Officer () as per
order dated 29/12/2003

Section Officer (Record)