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CENTRAL ADMINISTRATIVE TRIBUNAL  
- JODHPUR BENCH, JODHPUR.

Date of Order : 11-07-2001

O.A. No. 143/1999.

Hari Ram Sharma son of shri Thana Ram Sharma, Retired senior stores officer Northern Railway, R/o House No. 1325-D, Near Escort Agency, amarsinghpura, Bikaner (Rajasthan) 334001.

APPLICANT ..

VERSUS

1. The Union of India through General Manager, Northern Railway Headquarters, Baroda House, New Delhi.
2. Controllers of Stores, Northern Railway Headquarters, Baroda House, New Delhi.
3. The General Manager (Personnel), Northern Railway, Headquarters Baroda House, New Delhi.
4. The Deputy Controller of Stores, Northern Railway, Stores, Depot, Jodhpur.

RESPONDENTS ..

Mr. Bharat Singh, counsel for the Applicant.  
Mr. Vinit Mathur, counsel for the Respondents.

CORAM

Hon'ble Mr. Justice B. S. Raikote, Vice Chairman.  
Hon'ble Mr. Gopal Singh, Administrative Member.

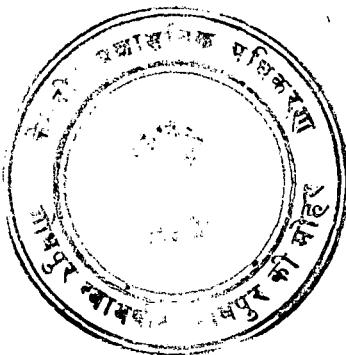
ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Hari Ram Sharma has prayed for quashing the impugned order dated 10.04.1998 (Annexure A-1), being irregular, unauthorised, unfair and improper and for a direction to the respondents to treat the period from 19.09.1981 to 08.01.1992 as spent on Railway duty instead of sick leave and to pay the amount of encashment of leave to the applicant for the period from 19.08.1991 to 08.01.1992.

Gopal Singh

2. Applicant's case is that he was appointed in Railway service on 12.09.1956 and retired on super-annuation on 31.01.1995. He was posted as Assistant Controller of Stores, Northern Railway, Bikaner and he was sent to get himself medically examined vide respondents letter dated 13.08.1991(Annexure A-2). He was kept under medical examination from 19.08.1991 to 08.01.1992. It is the contention of the applicant that he was unauthorisedly kept under medical examination from 19.08.1991 to 08.01.1992 and therefore, this period should be treated as on duty. It is also pointed out by the applicant that he was examined by the Medical Board on 13.12.1991 and he was found fit in C-II category provided he is given a desk job. The applicant has made repeated representations for considering the period from 19.08.1991 to 08.01.1992 as on duty, but to no avail. Hence, this application.



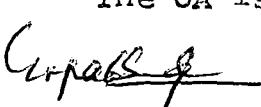
3. In the counter, it has been stated by the respondents that the Medical Superintendent, Bikaner had nowhere refused to examine the applicant, the Medical Superintendent, Bikaner took the applicant on the sick list vide memo No. 4603 dated 19.08.1991 and after due observations declared him fit only on 09.01.1992 vide memo No. 10418 of 09.01.1992. It is stated by the respondents that since the applicant was taken on sick list, the question of treating him as on duty does not arise. In the circumstances, it has been submitted by the respondents that the applicant has no case and the application is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

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5. Though, the applicant has challenged the authority of Deputy Controller of Stores for sending him for medical examination in this application, he has taken no steps in making a representation immediately on receiving the letter dated 13.08.1991 (Annexure A-2), requesting Medical Superintendent, Bikaner to medically examine him. The applicant has also not explained as to how he spent the period from 19.08.1991 to 08.01.1992. It cannot be believed that the Medical Authorities detained the applicant for such a long period simply for medical examination, they must have been giving the applicant due treatment before he was declared fit for the Government job. It is also seen from Annexure A-2 that the applicant had suffered from T.B. and had remained sick for about one year earlier. The applicant has also pointed out in his application that he was again examined by the Medical Board on 05.08.1992 and was found fit for sedentary job in non-technical category. In the circumstances, we are of the view that the applicant was under treatment in the Railway Hospital, Bikaner for <sup>a</sup> period from 19.08.1991 to 08.01.1992, where after he was given a Fit Certificate on 09.01.1992. Thus, this period has been treated as Medical Leave by the respondents. As has been pointed out above, the applicant has not been able to make out a case to treat this period as on duty. Hence, we have no option, but to pass the order as under : -

"The OA is dismissed with no order as to costs."

  
( GOPAL SINGH )  
Admn. Member

  
( JUSTICE B.S. RAIKOTE )  
Vice Chairman

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Part II and III destroyed  
in my presence on 15-5-67  
under the supervision of  
Section Officer (Recd) as per  
order dated 13-3-67

NENL  
Section Officer (Recd)