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CENTRAL ADMINISTRATIVE TRIBUNAL
ORIGINAL APPLICATION NO. 112/2003
DATE OF DECISION : THIS THE 20TH DAY OF FEB.,2004

CORAM :

**HON'BLE MR. G.R. PATWARDHAN,
ADMINISTRATIVE MEMBER**

Achleshwar Ojha S/o Shri Banshilal Ji,
Aged about 55 years, at present working as
Electric Fitter, Diesel Shed, North West Railway,
Bhagat Ki Kothi, Jodhpur, resident of
Brahampuri, Bichala Bas, Jodhpur.

.....Applicant.

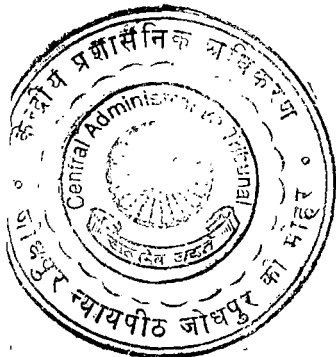
[By Advocate Mr. Sumeet Mehta, for applicant]

versus

1. Union of India through the General Manager,
North West Railway, Jaipur.
2. Chief Engineer (Diesel),
North West Railway,
Bhagat Ki Kothi, Jodhpur.
3. Divisional Medical Officer,
North West Railway,
Railway Hospital, Jodhpur.
4. Chief Medical Superintendent,
North West Railway,
Railway Hospital, Jodhpur.

.....Respondents.

[By Advocate Mr. Manoj Bhandari, for the respondents]



ORDER [ORAL]

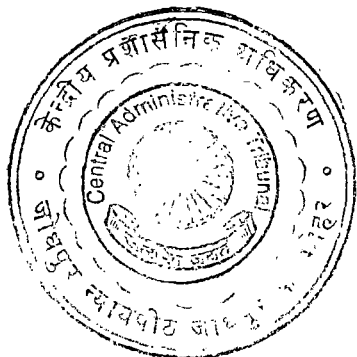
This is an application by Achleshwar Ojha, against the Union of India, Chief Engineer (Diesel), Divisional Medical Officer & Chief Medical Superintendent of North Western Railway based at Jodhpur. No particular order has been challenged – what has been prayed can be listed as follows :-

- (a) That the applicant be paid salary for the period 12.3.99 to 23.8.99.

- (b) That this period of about five months be treated as medical leave.
- (c) Exemplary costs of Rs. 5000/- be imposed on the respondents and that this should be recovered from the pay of the responsible officer.

2. Non petitioners – the Railways have filed a reply which is on record. Learned advocates for both the parties have been heard.

3. The case of the petitioner can be stated briefly first. He says that on 12.3.99 while on duty, he was severely injured due to an accident and was, therefore, immediately rushed to Railway Hospital, was given medical aid and called for check up. Thereafter, when he appeared for check-up, he was referred to Orthopaedic Surgeon in M.G. Hospital on 15.6.99. Thereafter, he was declared fit on 24.8.99. However, it is his grievance that this period of 12.3.99 to 24.8.99 is not being treated as sick leave despite his having written to Chief Medical Superintendent who as per letter of 4.4.2001, is insisting on furnishing of form G-92.



4. The applicant has enclosed five annexures – none of them falling within one year of his preferring this application on 12.5.2003.

5. In reply, that has been filed under the signature of Chief Medical Superintendent, following points have been highlighted

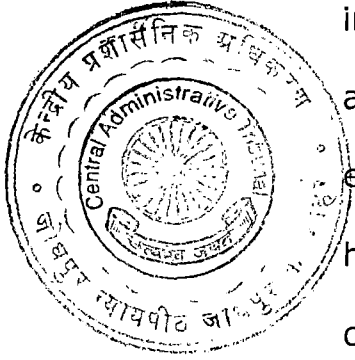
:-

- (a) That the applicant who maintains that he was severely injured on 12.3.1999, was attended at Railway Hospital for minor injury and was given first aid by duty doctor who remarked that the patient was not willing to stay at hospital and suggested three days of rest and also directed him to attend the authorised medical officer.
- (b) However, despite this advise, the applicant was traceless between 13.3.1999 to 13.5.1999 and attended the hospital only in between on 20th March for multiple boils in OPD.
- (c) When the applicant was referred on 15.6.1999 to Orthopaedic Surgeon at Mahatma Gandhi Hospital, he did not come back to Railway Hospital nor got admitted to Mahatma Gandhi Hospital but appeared with a private medical certificate on 24.8.1999 and on that basis, he was declared fit and taken back on duty.
- (d) The applicant has not acted in accordance with the procedure or the advice of the concerned medical officer and, therefore, he cannot be permitted to complain against the authorities.
- (e) The applicant has not been able to show infringement of any of his legal rights.



— Dr. —

6. During the arguments, the applicant was specifically asked to explain his absence for the period 12.3.1999 to 15.6.1999 to which there was no answer. From the application as well as the reply, it is difficult to conclude that the applicant was severely injured. A person who is so injured would not be in a position to avoid medical attendance and would be in a better position to explain his entire period of absence. Perhaps this is preventing him from seeking the usual remedy of petitioning superior officers. In this background, it is difficult to accept the story as projected by the applicant. Consequently, the application is rejected.



— G.R. Patwardhan
[G.R. Patwardhan]
Administrative Member

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