

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

Original Application No. 109/2005

Date of order: 18.07.2008

**HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER**

Mahaveer Raj Bhansali S/o Late Sh. Kanak Raj Bhansali, aged about 64 years, R/o 215/C IIInd Polo, Paota C Road, Jodhpur (Rajasthan).

Ex-Deputy S.S. (Commercial), Northern Railways, Bareilly, (Utter Pradesh).

...Applicant.

Mr. S.K. Malik, counsel for applicant.

VERSUS

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Muradabad, (Utter Pradesh).
3. Senior Divisional Personnel Officer, Northern Railway, Muradabad (Utter Pradesh).
4. Senior Divisional Commercial Manager, Northern Railway, Muradabad (Utter Pradesh).

...Respondents.

Mr. Kamal Dave, counsel for respondents.

**ORDER
[By - Mr. M.L. Chauhan, Judicial Member]**

The applicant has filed this Original Application No. 109/2005 thereby praying for the following reliefs: -

"(a). By an appropriate order, writ or direction Impugned Order dated 10-2004/01.11.2004 (Annex. A/1) passed by Respondent No. 2 wherein Sick Period from 18 Mar. 1999 to 24 Jul. 2000 of the applicant has been treated as L W P (Leave Without Pay) be declared illegal and be quashed and set-aside as if it was never passed against the applicant.

"(b). By an appropriate order, writ or direction, respondents may be directed to regularize the Sick Period of the applicant from 18 Mar. 1999 to 24 Jul. 2000 by converting the same in to L A P, L H A P and Leave Not Due.

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- (c). By an appropriate order, writ or direction, respondents may be directed to make the payment of 74 days L H A P along with interest @ 18% P.A.

(d). By an appropriate order, writ or direction, respondents may be directed to re-fix the pay of the applicant at Rs. 7700/- Instead of Rs. 7300/- by granting him increments which were due to him in Nov. 1999, Nov. 2000 and in Nov. 2001 and make the payments accordingly along with interest @ 18% P.A.

(e). By an appropriate order, writ or direction, respondents may be directed to revise the P P O of the applicant and fix the Pension of the applicant on the basis of Basic Pay of Rs. 7700/- and make the payments of all retiral benefits like Commutation of Pension, Gratuity, Leave Encashment, Transfer Allowance, Bonus, Night Allowances etc. along with interest @ 18% P.A.

(f). Exemplary cost be imposed on the respondents for causing undue harassment to the applicant.

(g). Any other relief, which is found just and proper, may be passed in favour of the applicant in the interest of justice by this Hon'ble Tribunal."

2. Briefly stated facts of the case are that the applicant has earlier filed O.A. No. 252/2002 before this Tribunal thereby praying for many reliefs including treating the period w.e.f. 18.03.1999 to 24.07.2000 during which the applicant was sick, regularizing the said period by granting L A P, L H A P and Leave Not Due including other reliefs and also to drop the inquiry proceeding which was continued even after the retirement of the applicant. The said O.A. was disposed of by this Tribunal by giving certain directions. It was also observed by the Tribunal that in case the applicant is still aggrieved by the action of the respondents, it will be permissible for the applicant to file fresh O.A. Some of the directions given by



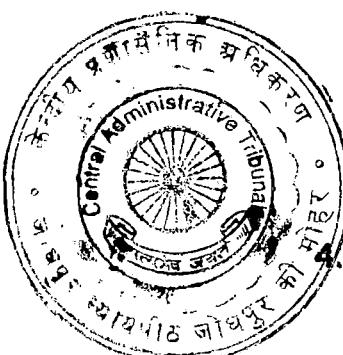
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this Tribunal in the earlier O.A. was complied with but the respondents did not regularize the period w.e.f. 18.03.1999 to 24.07.2000 as can be seen from the impugned order dated 10-2004/01.11.2004 (Annex. A/1). It is this order which is under challenge in this O.A. The main contention raised by the applicant in the O.A. is that the impugned order has been passed by the respondents illegally which may be quashed and set aside and after regularizing the aforesaid period, the pay of the applicant may also be re-fixed. It is on these basis, the applicant has filed this O.A. thereby praying for the aforesaid reliefs.

3. Notice of this Original Application was given to the respondents. Respondents have filed reply thereby opposing the claim of the applicant. However, during the pendency of this O.A., the respondents on the representation of the applicant, has regularized the period of the applicant w.e.f. 18.03.1999 to 24.07.2000 by granting leave due in the following form, by passing the order dated 08.02.2005 (Annex. R/1): -

From 18.03.1999 to 11.08.1999	= 147 days LAP
From 12.08.1999 to 24.10.1999	= 74 days LHAP
From 25.10.1999 to 24.07.2000	= 182 days LWP (as no leave was due to applicant on that day)

4. On account of regularizing the period in the manner as stated above, the pay of the applicant has been re-fixed at Rs. 7500/- w.e.f. 01.08.2000. In view of this subsequent development, learned counsel for the applicant argued that substantial relief has been granted to the applicant and only



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grievance of the applicant which survives now is that on account of regularizing of the period of the applicant in the manner as stated above and re-fixing his pay at Rs. 7500/- w.e.f. 01.08.2000, the applicant was entitled to increment as the applicant had completed more than one year of service i.e. about 17 months of service as on 31.12.2001 on which date he superannuated from service. Thus, according to learned counsel for the applicant, his pay should have been fixed at Rs. 7700/- before his retirement on 31.12.2001 and consequently on such re-fixation he is also entitled to retiral benefits and also for the issuance of the revised P.P.O. on the basis of the Last Pay Drawn by the applicant and other grievance of the applicant is that on account of his regularizing the aforesaid period in the manner as stated above, the applicant was also entitled for the payment of bonus, D.A., Night Duty Allowance, Transfer Allowance, Suspension Allowance etc. on the revised pay and these orders were to be passed by the respondents after regularizing the leave due to the applicant in terms of the earlier judgment.

5. We have given due consideration on the submissions made by the learned counsel for the applicant.
 6. We are of the view that the applicant has made out a case for grant of limited direction which survives now and as noticed above. Accordingly, we are of the view that this Original Application can be disposed of with a direction to the respondents to take/follow ^{in 164} action in terms of regularizing the period of the applicant as per order dated 08.02.2005 (Annex. R/1) and re-fix the pay of the applicant in accordance with
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rules after granting annual increment and also re-fix the pay for the purpose of pension and take up the matter with the appropriate authorities for the purpose of issuing revised P.P.O. Needless to add that in case the pay of the applicant is revised, he shall also be entitled to retiral benefits on the basis of the enhanced pay to be so fixed. Accordingly, the present Original Application is allowed in terms of the aforesaid direction and respondents are directed to do the needful within a period of three months from the date of receipt of certified copy of this order. Respondents shall also consider the case of the applicant for the payment of bonus, D.A., Night Duty Allowance, Transfer Allowance, Suspension Allowance etc. on the basis of revised pay in terms of the directions given by this Tribunal in the earlier O.A., within the aforesaid period. It is further clarified that *prima facie*, we are of the view that the applicant is entitled for increment after 01.08.2000 till his retirement on 31.12.2001 as he has completed 17 months of service. If the respondents are of the view that during the aforesaid period of 17 months, the applicant was absent or some of the period cannot be treated for the purpose of increment, in that eventuality they will pass a speaking order.

7. With these observations, the present Original Application is disposed of. No order as to costs.


 [B.L. Khatri]
 Administrative Member

[M.L. Chauhan]
 Judicial Member

kumawat

Part II and III destroyed
in my presence on 15/1/14
under the supervision of
Section Officer () as per
order dated 19/8/2014
Section Officer (Record)

Ree copy
Signature
Sic malib
23/9/08

Ree copy
Signature
23/9/08