

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.03 of 1997.

Date of Order:26.07.2004

PRESENT : HON'BLE MR. S.K. HAJRA, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

JADUGOPAL PRAMANICK

VS.

UNION OF INDIA AND ORS. (S.E.Rly.)

For the Applicant : Mr. B.C. Sinha, Counsel

For the Respondents : Mr. B.K. Gupta, Counsel

O R D E R

MR.S.K. HAJRA,AM:

The applicant who was a Naik in Security Department in South Eastern Railway at Garden Reach was medically de-categorised w.e.f.18.6.1993 on account of injuries suffered by him in a serious accident in course of duty. The applicant was offered the post of Chowkidar which had a lower scale of pay. The applicant did not join duty and took voluntary retirement on medical grounds on 16.1.1995.

2. The applicant filed this O.A. for treating the period from 24.6.1992, the date of accident on duty to the date of voluntary retirement on 15.9.1995 as on duty with all consequential benefits with a direction to the respondents to refund the amount recovered from DCRG and calculate the pension and other benefits of pay at Rs.1200/per month.

3. We perused the pleadings and heard the ld. counsel on both sides.

4. The main grievance of the applicant was that he was not offered alternate post on the same pay he was drawing and that he did not join duty because a lower post in lesser pay scale was offered to him and that he is entitled to increment and fixation of pension based on increment at Rs.1200/- per month. The contention of the respondents was that the applicant was absorbed as a Chowkidar. The

applicant did not report as Chowkidar. Since he was not on duty, the period during which he was absent was treated as an extra-ordinary leave as per the extant Railway Rules. His last pay was Rs.1130/-, and his pension was determined based on the last pay drawn by him. This apart ~~and~~ an employee during leave draws the leave salary and not duty pay. That being so, the applicant's ~~claim~~ for treating the period from 24.6.1992 to 15.1.1995 as on duty is unfounded.

5. It is undisputable that consequent on his medical de-categorisation, the applicant was offered the post of Chowkidar. The applicant on his own did not report for duty. The applicant who was not on duty from 24.6.1992 to 15.1.1995, is not entitled to duty pay during the period he was not on duty.

6. As regards the plea of the applicant for fixing his pension, based on pay of Rs.1200/- per month, we see no merit in it. The applicant's last pay was Rs.1130/-. As per the extant rules, an employee during leave draws leave pay and not duty pay. This apart the increment in such a case will be drawn from the date of resumption of duty. Since the applicant was on leave and did not resume duty he is not eligible for the increment.

7. In our opinion, we see no substance in the O.A. The O.A. is liable to be dismissed. Accordingly, the O.A. is Dismissed.



MEBER(J)



MEMBER(A)