

In the Central Administrative Tribunal
Calcutta Bench

OA No.217/97

Present : Hon'ble Mr.S. Biswas, Member(A)

1) Pranab Kumar Das, S/o Mongal Moy Das, Working as Clerk Gr.II, under Senior Security Commissioner, Eastern Rly, Asansol, residing at Village Chhoto Mliai, P.O. Jangipur

...Applicant

-Vs-

1) Union of India, represented by GM, Eastern Rly, 17, Netaji Subhas Road, Calcutta-1

2) Chief Personnel Officer, Eastern Rly, -do-

3) Chief Security Commissioner, Eastern Rly, Koilaghat, Calcutta-1

4) Sr.Dvl. Personnel Officer, Eastern Rly, Sealdah, Calcutta

5) Sr. Security Commissioner, Eastern Rly, Calcutta

...Respondents

For the applicant : Mr.A.K. Banerjee, Counsel

For the respondents : Mr.P.K. Arora, Counsel

Date of Order : 8/3/94

ORDER

Mr.S. Biswas, Member(A)

Heard rival counsel. Went through the written submissions including reply and rejoinder.

2. The facts as projected by the rival parties and understood in the case are that while working as Naik as per his medical report dated 8-9-93 the applicant was found medically fit in B1 (with glass). After further screening on 27-9-94 by the Committee his case was referred to appropriate authority vide letter dated 8-8-94 for giving him a vacant ministerial post. Since the applicant was not fit to officiate in the higher Office Clerk Gr.II (Rs950-1500/-) - a post of an Office Peon offered in the scale of Rs750-940/- as against the scale of Rs950-1400/- (RP) in which he was already placed. The applicant had declined to accept that and went in a Writ (C.O) No.12317 of 1995 before Hon'ble High Court. This was disposed by an order dated 25-7-95 directing the respondent to give the medically decategorised applicant a Gr.II clerical job within 4 weeks. The applicant was

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accordingly absorbed in a Clerk Gr.II post in the scale of Rs950-1500/- (RP) with pay of Rs1090/- and joined at Asansol on 29-9-95 (C.G. Gr.II).

3. By this OA the applicant has sought salary and allowances for 512 days w.e.f. 26-4-94 to 19-9-95 as he was after medical decategorisation made to suffer compulsory waiting for duty whereas according to the applicant a suitable job should have been offered to him immediately and the authorities should have acted promptly on the decategorisation order of the Chief Hospital Superintendent, B.R. Singh Hospital dated 8-9-93. In other words the whole period for which the respondents failed to provide him alternative job should have been treated as on duty.

4. The respondent authorities disputed the claim. Though they failed to produce the records, but had appended relevant orders to the reply to which the applicant has filed rejoinder.

5. The respondent further contended that the applicant being a medically decategorised Naik of Railway Protection Force, this Tribunal has no jurisdiction. We have considered this objection to see that the applicant has submitted this OA as a ministerial staff (Clerk Gr.II) presently serving under the Rlys for vindicating his past service period as a Naik when he was serving as an RPF. Therefore, I am considering his case as a ministerial staff of the Rlys.

6. The respondent authorities have contended that the period under medical decategorisation order is to be regularised by leave, due or leave as not due and they are not liable to pay him salary as no job was performed and when an alternative job was offered as a Peon the applicant had declined to accept it. The respondents had fixed his salary in the past which was offered to him as per the order dated 25-7-95 (ibid) Hon'ble High Court's Order was prospective and no orders regarding the interim period when he was on leave or declined to accept another alternative job after being medically decategorised were passed to claim enabling him