

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.553/2004.

Tuesday this the 8th day of February 2005.

CORAM:

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.Madhavan Nair,
Retd. Chief Signal Inspector,
Southern Railway,
Trivandrum. Residing at :
Plot No.31/1023-N, Rail Nagar III,
Ponnurunni, Vyttila, Kochi-682 009. Applicant

(By Advocate Shri. TC Govindaswamy)

Vs.

1. Union of India, represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town P.O.,
Chennai-3.
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai-3.
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14.
4. The Senior Divisional Personnel Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14. Respondents


(By Advocate Shri P.Haridas)

The application having been heard on 8.2.2005,
the Tribunal on the same day delivered the following:

O R D E R (Oral)

HON'BLE MR.KV.SACHIDANANDAN, JUDICIAL MEMBER

The applicant was working as Chief Signal Inspector of Southern Railway. He claims that he was holding the charge of two posts simultaneously for two spells as ordered by the respondents and he is entitled to be paid the Dual Charge Allowance also. According to him he had claimed the same in time and followed it up with reminders. The Divisional authorities assured him that the matter is resting with the Chief Personnel



Officer and that once the sanction is received the payment would be made. But finally the Chief Personnel Officer refused to grant the benefit by the impugned order dated 15.6.2004 on the ground that "the claim is a belated one". Aggrieved by the said action on the part of the respondents the applicant has filed this O.A. seeking the following reliefs:

- a) Call for the records leading to the issue of Annexure A18 and quash the same;
- b) Direct the respondents to pay dual charge allowance to the applicant for the additional charge held by the applicant during the period from 1.10.1989 to 22.3.1990 and 12.12.1996 to 20.6.1997, in terms of Annexure A1 to A4, with interest calculated at the rate of 9%, compounded annually for the period from 1.7.1997 till the date of full and final settlement of the same.

2. The respondents have filed a reply statement contending that the applicant has stated in the O.A. that he has been paid Dual Charge Allowance for the period from 8.7.89 to 30.9.89. The statement of the applicant reveals that he is not clear in his stand and on that basis it is to be held that the present O.A. is on trial basis which is deserved to be dismissed. In the documents Annexure A1 and A5 produced by the applicant it has not been stated that the applicant is entitled for payment of dual charge allowance and if at all the applicant is to be granted the said allowance it must be on fulfilling the conditions prescribed for grant of such allowance. No prejudice has been caused and no convincing reason has been cited for grant of such allowance and for entitlement of interest etc.

3. When the matter came up before the Bench Shri TC Govindaswamy appeared for the applicant and Shri P.Haridas, learned counsel appeared for the respondents. Heard the learned counsel on either side and gone through the pleadings and



material placed on record. The claim of the applicant is for Dual Charge Allowance for the period from 1.10.1989 to 22.3.1990 and from 12.12.1996 to 20.6.1997. As per the records in the reply received from CPO, Madras vide letter dated 20.12.2002, a sanction has been given for the period from 8.7.89 to 7.10.89 (3 months) and dual charge allowance is not permissible for the period exceeding 6 months and since it is only for three months CPO/MAS has once again been addressed to get sanction for the remaining period. Learned counsel for the applicant has taken the matter to Rule 1337 (FR 49) of Indian Railway Establishment Code, which reads as follows:

"1337. (F.R.49).--A competent authority may appoint a railway servant already holding a post in a substantive or officiating capacity, to officiate, as a temporary measure in one or more of other separate posts at one time. In such cases his pay shall be regulated as follows:-

(a) the highest pay to which he would be entitled if his appointment to one of the posts stood alone, may be drawn on account of his tenure of that post;

(b) for each other post he draws such reasonable pay, in no case exceeding half the presumptive pay (excluding overseas pay) of the post as the competent authority may fix; and

(c) if compensatory or sumptuary allowances are attached to one or more of the posts, he draws such compensatory or sumptuary allowances as the competent authority may fix, provided that such allowances shall not exceed the total of the compensatory and sumptuary allowances attached to all the posts."

4. From the materials placed on record it is clear that the Divisional Authority has already recommended the matter to the Chief Personnel Officer but the CPO rejected the same only on the ground that the claim is a belated one. From the material placed on record, I am of the view that the applicant had repeatedly made representations to the concerned authorities and the

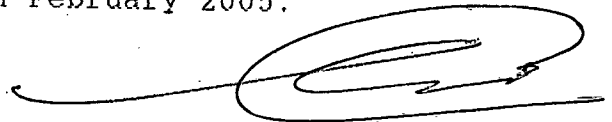


Divisional authority received the same and recommended his case to the Chief Personnel Officer, which has not been disposed of at the appropriate time. Considering the facts, I am further of the view that there is no delay in making the claim and the reason shown in the impugned order that "the claim is a belated one" cannot be sustained.

5. Under these circumstances, Annexure A-18 is set aside. In the interests of justice, I direct the Chief Personnel Officer, Madras to reconsider the case of the applicant and if the applicant is found to be eligible for the claim the same may be granted to him. The entire process shall be completed within a time frame of two months from the date of receipt of a copy of this order. The applicant is at liberty to send a copy of the O.A. and other documents, if any, and a copy of this order to the respondents at the earliest to avoid any delay.

6. O.A. is disposed of as above. In the circumstance, no order as to costs.

Dated the 8th February 2005.



K.V. SACHIDANANDAN
JUDICIAL MEMBER