

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 13 of 2010

Thursday, this the 11th day of August, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Jeevarajan A.R., aged 42 years,
 S/o. A.K. Ramakrishnan Nair,
 Loco Pilot (Goods), Southern Railway,
 Presently working under the control of
 The Chief Yard Master, Marshalling Yard,
 Southern Railway, Irumpuram (Ernakulam),
 Residing at: Ariyappilly House, Keezhillam P.O.,
 Perumbavoor, Ernakulam District.

Applicant

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. Union of India, represented by the General Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai-3.
2. The Divisional Personnel Officer, Southern Railway, Trivandrum Division, Trivandrum-14.
3. The Divisional Railway Manager, Southern Railway, Trivandrum Division, Trivandrum-14.
4. The Sr. Divisional Electrical Engineer/Operations, Southern Railway, Trivandrum Division, Trivandrum-14.

Respondents

(By Advocate – Mr. Thomas Mathew Nellimoottil)

This application having been heard on 11.08.2011, the Tribunal on the same day delivered the following:

[Signature]

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

The applicant who is working as a Loco Pilot (Goods), Southern Railway and at the relevant time under the control of the Chief Yard Master, Marshalling Yard, Irumpuram, Ernakulam is aggrieved by the refusal on the part of the respondents to arrange payment of salary and allowances from 16.10.2008 to 23.3.2009 and has come before this Tribunal seeking the appropriate relief.

2. The brief facts necessary for disposal of the application is stated thus:-

2.1. The applicant had approached this Tribunal earlier by filing OA No. 540 of 2008 challenging an order dated 13.8.2008 by which he was posted to the Control Office/TVC on having found suitable to perform the duties of "PRC" in terms of the Railway Board's letter. According to him he was still continuing on medical treatment unfit to do the job of a Loco Pilot (Goods) and claimed alternative employment as is available to a medically de-categorized staff. Representations were made in this behalf. Medical certificates were also produced before this Tribunal as an annexure. This Tribunal by order dated 8th September, 2008 a copy of which is Annexure A-3 produced in this case, disposed of his OA directing the respondents to consider his representation in the light of the existing rules and regulations and to dispose of the same by a speaking order and till such time the order dated 13.8.2008 were not to be given effect to. Subsequently his representation was disposed of by order dated 20.3.2009 Annexure A-6

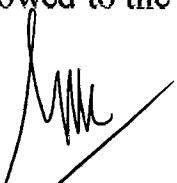


produced in the present case by which he has been declared as medically unfit and has been posted as PRC in the Control Office at TVC and temporarily posted to IPN under CYM/IPN for utilization in FOIS and ICMS related work in the operating department. Thus his grievance as raised in the earlier OA stood redressed by Annexure A-6 order. However, Annexure A-6 was passed only on 20.3.2009 and by virtue of the earlier order passed, the order impugned in the earlier OA could not have been given effect to until a fresh order was passed. Admittedly no orders posting him was passed pursuant to the judgement rendered by this Tribunal earlier until Annexure A-6 was issued. Thus he becomes entitled for his salary for the period from 8.9.2008 till 20.3.2009 the date on which Annexure A-6 is passed. There is no reason to deny the salary for this period. According to the respondents they have issued the relieving order on 3.9.2008. But it has to be mentioned that this Tribunal having declared that the order impugned dated 13.8.2008 cannot be given effect to, it goes without saying that the subsequent relieving of the applicant cannot be given effect to as otherwise respondents ought to have pointed out the fact that he has already been relieved and sought appropriate relief in that behalf. When the main order pursuant to which the applicant is relieved and the final direction given by this Tribunal is not to give effect to the same, necessarily it goes without saying that he continues to be in the same position as though the order impugned in the OA was not passed.

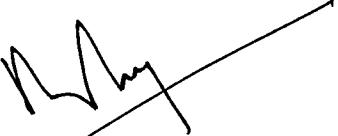
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3. In the circumstances, we declare that he is entitled for the monetary benefits from 16.10.2008 to 23.3.2009 the date on which Annexure A-6 is passed. Accordingly, we direct the same to be quantified and paid as expeditiously as possible at any rate within a period of four months from the date of receipt of a copy of this order.

4. OA is allowed to the extent as above. No costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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