

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.161/2003

Friday this the 11th day of April, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

G.Sambandamoorthy  
S/o Govindasami  
Sweeper-cum-Porter, Southern Railway  
Magudanchavadi, Salem District  
Residing at Railway Quarters No.8A  
Magudanchavadi Railway Station & PO  
Salem District.

Applicant

(By advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the General Manager, Southern Railway Headquarters Office, Park Town P.O. Chennai.
2. The Divisional Operations Manager Southern Railway Palghat Division, Palghat.
3. The Senior Divisional Personnel Officer Southern Railway Palghat Division, Palghat.

Respondents.

(By advocate Mrs.Rajeswari Krishnan)

The application having been heard on 11th April, 2003, the Tribunal on the same day deliverd the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant, a Sweeper-cum-Porter, Southern Railway, Magudanchavadi, Salem District, has filed this application for a declaration that the non-feasance on the part of the respondents to grant him the subsistence allowance as provided under Rule 1342 of the Indian Railway Establishment Code Vol.II from the date of his suspension is arbitrary, contrary to law and unconstitutional and for a direction to the respondents to release the productivity linked bonus for the financial year 2001-02 forthwith.

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2. Respondents in their reply statement contend that though the applicant was placed under suspension with effect from 14.9.2002, he had drawn his full wages for the months of October and November 2002, and that therefore, the payment made in excess of the subsistence allowance has got to be adjusted from the wages already paid. The respondents further contend that as there was an order from the Chief Judicial Magistrate, Kasargode for attachment of applicant's pay for ensuring his appearance in the court, his emoluments could not be disbursed to him. Regarding non payment of the productivity linked bonus due to the applicant, it is stated that the applicant was not available at the time of disbursement of the same and it was returned unpaid. The respondents also stated that the suspension of the applicant has since been revoked and he has joined duty.

3. The applicant has filed a rejoinder in which he states that the person mentioned as Sambodhana Moorthy in R-1 order does not refer to him because he is Sambanandamoorthy. On a perusal of the reply statement filed by the respondents, it is seen that none of the grievance of the applicant would subsist because the suspension order has been revoked and the subsistence allowance after adjusting the over payment for the months of October and November 2002 is ready for payment to him. The productivity linked bonus was not paid to him because he was not available at the time of its disbursement. R-1 relates to attachment of salary and what is claimed in this application is not salary but only subsistence allowance. Since there is no order for attachment of the subsistence allowance or productivity linked bonus, I find that there is no embargo in disbursing the subsistence allowance as also the productivity linked bonus.

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This application is therefore disposed of directing the respondents to disburse to the applicant the subsistence allowance after adjusting the over payment made for the months of October and November, 2002 and to pay to him the productivity linked bonus also. The above directions shall be complied with within a period of one month from today. There is no order as to costs.

Dated 11th April, 2003.



A.V.HARIDASAN  
VICE CHAIRMAN

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