

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM**

Original Application No. 35 of 2005

Thursday, this the 14th day of December, 2006

C O R A M :

**HONBLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

S. Mohanan,
Son of K. Sekharan,
Care Taker, Running Bungalow,
Southern Railway, Quilon,
Residing at 'Ragasudha',
Chellamangalam, Chempazhanthiyil P.O.,
Thiruvananthapuram. ... Applicant.

(By Advocate Mr. P. Ramakrishnan)

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 Senior Divisional Personnel Officer,
Divisional office, Personal Branch,
Southern Railway, Trivandrum - 14. ... Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)

(The application having been heard on 7th Dec., 2006, this
Tribunal on 14.12.06 delivered the following):

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

What is the extent of concessions available to a railway employee who
had been medically declassified? is the short question. Does the



concession include treatment of the period from the date of decategorization till alternative employment as period of duty enabling the railway employee to claim pay for such period?

2. Chapter XIII deals with absorption of medically incapacitated staff in alternative employment. Rules 1310 and 1311 stipulate as under:-

1310: *Offer of alternative employment to be in writing:- The alternative employment must be offered in writing, stating the scale of pay and the rate of pay at which it is proposed to reabsorb him in service. On no account should the Railway servant be posted to an alternative appointment until he has accepted the post. A railway servant is at liberty to refuse an offer of alternative appointment and the leave granted to him will not be terminated pre-maturely merely because of his refusal. The leave must run its course. He will continue to remain eligible for other alternative offers of appointment till his leave expires and efforts to find such appointment should, therefore, continue throughout the currency of leave.*

1311: *As soon as a railway servant has accepted the alternative employment offered to him and has been appointed thereto, the balance of the leave granted to him will be cancelled and only the leave actually availed of will be debited to his leave account.*

3. Order dated 13-01-2000 in OA 861/97 filed by the applicant would trace out the history of his case. The applicant while working as Pointsman met with an accident and consequently, he was medically de-categorized and he was to wait for alternative appointment. He was accordingly granted leave as under:-



Leave on average pay: from 12-02-1991 to 6-4-1994

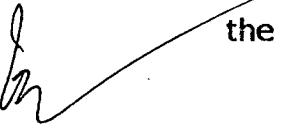
Leave on Half average pay: from 7-4-94 to 16-4-94

Extra Ordinary leave : from 17-04-1994 to 26-03-1996

4. The applicant was earlier offered an appointment in a lower scale, which he refused. Thereafter, he was offered the post of care taker, which he had accepted. His earlier two O.As were disposed of. In the aforesaid OA No. 861/97, the prayer of the applicant was "*Direct the respondents to draw the applicant's annual increments in scale of Rs 950 – 1500 due on 1-1-93, 1-1-94, 1-1-95, 1-1-96 and 1-1-97 and to grant the consequential benefits thereof.*" This was allowed and the impugned order in the present OA is in pursuance to the order dated 13-01-2000 in the aforesaid OA No. 861/97. The applicant through the present OA prayed for the following relief: "hold that the applicant is entitled to have the period 12-2-1994 to 25-03-1996 treated as if on duty and for all consequential benefit including pay and allowance."

5. Respondents have contested the OA. According to them, the claim of the applicant that the aforesaid period, which the applicant wants to treat as duty is not covered under any rule and hence prayed for dismissal of the OA.

6. Arguments were heard. Rules provide for only grant of leave during the period from the date of de-categorization till the date of alternative



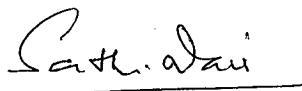
appointment under Rule 1310 of the IREM. Of course, by a separate rule, 1320 of the Code increment is available during the period of waiting for alternative employment. Increment has already been granted to the applicant by virtue of this Tribunal's order. As regards leave, the authorities have rightly granted the applicant first leave on full pay to the extent he had such a leave at his credit, followed by leave on half the average pay and it was only thereafter that the respondents resorted to leave on loss of pay. Thus, the authorities have acted strictly in accordance with the provisions of the Rules. Hence, on merit the OA fails and is therefore rejected.

7. No costs.

(Dated, the 14th December, 2006)



Dr. K B S RAJAN
JUDICIAL MEMBER



Sathi Nair
SATHI NAIR
VICE CHAIRMAN

cvr.