

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW

BENCH, LUCKNOW.

O.A. NO. 541/2003

THIS THE ²³ DAY OF DECEMBER, 2008

HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

HON'BLE DR. A.K. MISHRA, MEMBER (A)

Suraj Kumar Singh aged about 42 years son of late Sri Mahadev Singh, resident of Q.No. E/20/C, Barhani, District-Siddharth Nagar,

..Applicant

By Advocate: None

Versus

1. Union of India through the Secretary, Railway Board, New Delhi.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Senior Divisional Engineer, II N.E., Railway, Lucknow.
4. Divisional Railway Manager, NER, Lucknow.
5. Assistant Engineer, Board Gauge (BC) N.E. Railway, Gonda

...Respondents

By Advocate: Sri B.B. Tripathi for Sri M.K. Singh

ORDER

BY HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

Applicant has filed the O.A. with a prayer to issue direction to the respondents for payment of his salary w.e.f. 16.8.86 to 12.4.1991 and 1.9.93 to 14.6.94 with all consequential benefits like bonus, arrears and promotions etc. on the ground that the authorities have denied all the benefits without any justified ground.


2. The respondents have filed counter reply denying the claim of the applicant stating that the authorities have rejected the claim of the applicant with a reasoned order and there are no justified grounds for interference of this Tribunal.

3. The applicant has filed Rejoinder Reply denying the stand taken by the respondents and reiterated the pleas taken in the O.A.

4. Heard .

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant filed O.A. No. 752 of 1994 on the file of this Tribunal claiming to issue direction to the respondents for payment of salary from 16.8.1986 to 12.4.1993 and from 1.9.1993 to 14.6.1994 with all consequential benefits like bonus, increment from 16.1.1980 and remaining outstanding amount of Rs. 809/- with prevailing interest and also sought seniority, promotion etc. The said O.A. was disposed of on 19.9.2001 with a direction to the respondents to consider the representation of the applicant. Thereafter, the applicant also preferred CCP No. 75 of 2002 alleging non compliance of the order of the Tribunal dated 19.9.2001 but the same was dismissed on 31.10.2002 feeling satisfied with the compliance order filed by the respondents. Thereafter, applicant



has filed the present O.A. with the same relief which he claimed in the earlier O.A. without challenging the rejection of his claim passed by respondent No. 3 dated 19.3.2002 though he filed the same as Annexure No. 1.

7. The applicant claimed salary for the period from 16.8.86 to 12.4.1993 and from 1.9.1993 to 14.6.94 with all consequential benefits. Admittedly, the applicant was absented from work and he did not report to duty during that period and he never submitted any application for leave and as such he is not entitled for any wages for the said period, during which, he remained unauthorizedly absent. It is also the case of the respondents that applicant was engaged as casual Labour Khalasi in grade 750-940 but as fresh face w.e.f. 13.4.91 and as a result thereof, the benefits accrued to him on account of his previous working have elapsed. The applicant never challenged the order dated 13.4.91 by which he was stated treated as a fresh face, therefore, he is not entitled for any of the reliefs as claimed by him. As per the direction of the Tribunal in O.A. No. 752/94, the authorities have considered the claim of the applicant and passed reasoned order with all details and thus the applicant is not entitled for any of the benefits.


8. The applicant did not place any material to show that he submitted application for casual leave for the period he was absent i.e. for 16.8.86 to 12.4.91 and sanction of such leave by the competent authority. Admittedly, the respondents have

issued orders subsequently dated 13.4.91 stating that the applicant was engaged as Casual Labour Khalasi in the grade of Rs. 750-940 as a fresh face w.e.f. 13.4.91 and in which there was no reference of continuity of his previous working and he did not question the validity of such order dated 13.4.91 for treating him to be a fresh face. Without sanction of any leave for his period of absence and without questioning the validity of order dated 13.4.91, the applicant is not entitled to salary w.e.f. 16.8.86 to 12.4.91 and as such the rejection of the claim of the applicant by the respondent No. 3 vide order dated 20th March, 2002 (Ann. No.1) is a reasoned one. Even in the rejection order dated 20th Mach, 2002, the respondent No. 3 also categorically stated that for the absent period w.e.f. 1.9.93 to 14.6.94, applicant also does not submit any leave application to the competent authority for regularization of such period and as such he is not entitled for any salary and on that ground he rejected the claim of the applicant.

9. From the reading of Annexure No.1 dated 20.3.2002, the respondent No. 3 has given reasons for rejection of the claim of the applicant for payment of salary as claimed by the applicant and in such circumstances, there are no justified grounds for allowing the claim of the applicant. Further, the applicant, who filed this O.A. on 11.9.2003 also did not challenge the order dated 20.3.2002 (Annexure No.1) under which respondent no. 3 has categorically furnished all reasons for rejection of the claim of the applicant and without challenging the validity of such rejection order, O.A. is also not at all maintainable.

10. In view of the above circumstances, there are no merits in the claim of the applicant and as such, the O.A. is liable for dismissal.

11. In the result, O.A. is dismissed. No costs.


(DR. A.K. MISHRA)
MEMBER (A)


(M. KANTHAIAH)
MEMBER (J)

23.12.08

HLS/-