

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Execution Application No. 1276/2012 in
Original Application No. 282/2011

This, the 4th day of October, 2013

Hon'ble Sri Navneet Kumar, Member (J)

Ajay Sinha aged about 36 years son of Sri Vinayak Prasad Sinha
residing at H.No. 13, Vaishnopaluram, Pura Road, Rajajipuram, Lucknow

Applicant.

By Advocate: Sri Praveen Kumar

Versus

Union of India through-

1. The General Manager, North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow.
3. The Senior Divisional Commercial Manager, North Eastern Railway, Ashok Marg, Lucknow.

Respondents.

By Advocate: Sri B.B. Tripathi

(Reserved on 24.9.2013)

ORDER

By Hon'ble Sri Navneet Kumar, Member (J)

The present Execution Application has been preferred by the applicant for non-compliance of the order dated 8th November, 2011 passed by this Tribunal in O.A. No. 282/2011. By virtue of this order, the Tribunal directed as under:-

"11. In view of the above, this O.A. is allowed with direction to the respondents to take appropriate measures to assign duty to the applicant at a suitable place keeping in view the advice given by the HOD, ENT, KGMC, Lucknow as well as LNM Railway Hospital, Gorakhpur expeditiously within a period of two months from today and pay to the applicant the salary including for the period during which he remained under medical examination/ sick list owing to hearing difficulty. No order as to costs."

2. The applicant submits that after the order passed by the Tribunal the copy of the order was duly communicated to the respondents but respondents instead of complying the order of the Tribunal, mislead the order of the Tribunal and ignored the direction given by the Tribunal.

3. The learned counsel appearing on behalf of the respondents pointed out that the order passed by the Tribunal was fully complied with, applicant has prayed for payment of salary from 8.4.2011 to 30.8.2011 during which period, he was on sick by further praying for payment of



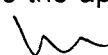
salary from 12.9.2011 to 23.1.2012. The learned counsel for respondents has also pointed out that after the approval of the competent authority, the applicant was again sent for medical examination before the Medical Board but he did not report to the office. Apart from this, it is also pointed out by the respondents that payment of salary as mentioned by the applicant himself from 8.4.2011 to 30.8.2011 has been made by granting sick leave. Through their Supple. Counter Reply, the learned counsel for respondents has again pointed out that the applicant remained absent from duty from 12.9.2011 to 23.1.2012, nor he has applied for leave for that period, therefore, on the basis of unauthorized absence by the applicant and misrepresentation of the applicant, the instant execution application deserved to be dismissed.

4. The learned counsel for the respondents has also relied upon a letter dated 18.9.2011 which provides that the applicant was not remained on waiting for duty w.e.f. 12.9.2011 to 23.1.2012, as such the direction of the Tribunal has already been complied with and nothing survive to be adjudicated in the present execution application.

5. Learned counsel for the applicant has filed the reply to the C.A. as well as Supple. RA to the Supple. CA filed by the respondents and once again it is reiterated by the learned counsel for the applicant that the order passed by the respondents has not been complied with as such the respondents are liable to be punished.

6. Heard the learned counsel for parties and perused the record.

7. The applicant, who was working in the respondents organization preferred O.A. No. 282/2011 which was decided by the Tribunal on 8th November, 2011 whereby the applicant has prayed for assigning duty to the applicant at a place as per advice given by the ENT specialists at KGMC and LNM Railway Hospital, Gorakhpur and also to pay salary in accordance with law. It is also prayed by the learned counsel for the applicant in his O.A. that the respondents be directed to pay salary for the period during which the applicant remained under medical examination/ sick list owing to hearing defect. While deciding the O.A., the Tribunal allowed the same and directed the respondents to take appropriate measures to assign duty to the applicant at a suitable place

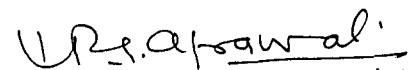


keeping in view the advice given by the ENT, KGMC, Lucknow as well as LNM Railway Hospital, Gorakhpur expeditiously within a period of two months from today and pay to the applicant the salary including for the period during which he remained under medical examination/ sick list owing to hearing difficulty.

8. As regards, the first part of the order is concerned, to assign duty to the applicant suitably placing him as per the advice of the doctors, that was done by the respondents. In regard to salary including the period during which the applicant remained under medical examination/ sick list owing to hearing difficulty. Reply has been given by the respondents through Counter Reply as well as through Supple. C.A. Since the order passed by the Tribunal has to be complied with, later and spirit and the authorities are not empowered to interpret the orders of their own, Learned counsel appearing on behalf of the respondents, though submitted that the respondents have taken a decision in regard to second part of the order is concerned, i.e. payment of salary during which the applicant remained under medical examination but no such order is available on record. Only the order dated 17.11.2011 (Annexure SCA-1) is relied upon by the learned counsel for the respondents which appears to be not justified and correct on the part of the respondents.

9. Considering the submissions made by the learned counsel for the parties, the respondents are directed to pass a fresh order complying the orders of the Tribunal in later and spirit. The same shall be done within a period of 2 months from the date of certified copy of this order is produced.

10. With the above observations, the present Execution Application is disposed of. No order as to costs.


(Navneet Kumar)
Member (J)

HLS/-