

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 77 OF 2006

[Patna, this Thursday, the 8th Day of March, 2007]

C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

R.K.Roy, S/o Late Prabhu Roy, Junior Engineer/P-Way, East Central Railway, Danapur residing in Road No.2, Dwarikapuri, Hanuman Nagar, Patna-800 026. ....APPLICANT.

By Advocate:- None [Applicant appearing-in-person].

Vs.

1. The Union of India through General Manager, E.C.Railway, Hajipur-844 101.
2. The Chief Administrative Officer [Con.], E.C.Railway, Mahendrughat, Patna.
3. The Deputy Chief Engineer [Con.]/1, E.C.Railway, Danapur, Patna-801 105.
4. Sr. Section Engineer [P-Way], Construction, E.C.Railway, Danapur, Patna-801 105.
5. Sri Aejaaz Ahmad, Chief Engineer [Con.], North, E.C.Railway, Mahendrughat, Patna. ....RESPONDENTS.

By Advocate :- Shri B.K.Sinha, ASC.

O R D E R [ORAL]

Justice P.K.Sinha, V.C.:- The applicant appearing in person seeks direction to the respondents to pay him DA and conveyance charge as detailed in Annexure-A/2 with statutory interest minus Rs. 3445/- already paid to the applicant without making it clear as to which of his TA bills have been honored, and for compensation.

2. For the same purpose the applicant had earlier moved this

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Tribunal in OA 169 of 1998 which was disposed of by order dated 08.12.2000 vice Annexure-A/4. Reading from that order it would appear that the applicant was serving under the respondents as PWI [Special] and had laid claim for the aforesaid allowances on the ground that vice order of this Tribunal recorded in OA 541 of 1994, his headquarters had been fixed at Fatuha hence he would be entitled to DA and conveyance charges for the number of days he had been officially deputed and was supposed to work at Danapur headquarters. In OA 169 of 1998 the respondents had disputed the claim. The matter was considered by this Tribunal in its entirety. This Tribunal observed in para 2 of the order, towards its end, as follows :-

“Fact, however, remains that while accepting the claims of the applicant in principle, the responsibility lies with the respondents authority to determine whether the journey has been actually performed by the applicant, and hence only upon such determination, the quantum of the claims of the applicant admissible in law should be settled.”

With the aforesaid observation this Tribunal directed the applicant to submit his rightful claims in prescribed and proper proforma with details, to the respondents whereafter it was to be for the authority at the level of the Deputy Chief Engineer [Construction] to determine the quantum of the claims of the applicant as admissible under law. It also observed that if so required, the concerned authority would be at liberty to go for fact-finding inquiry to determine the admissible claims of the applicant.

3. Through Annexure-R/6 the applicant had placed his fresh claim before the authority. An inquiry it appears was held as per direction of the Tribunal in the OA aforesaid, and the report is at Annexure-A/7. It was noted

*[Handwritten signature]*

in the inquiry report that the applicant did not produce any document relating to the instructions issued by the competent authority regarding performing duty at Danapur leaving his headquarters at Fatuha except the fact that the journeys were certified by the then Incharge PWI. However, such authentication by PWI Incharge was also doubted. At running page 31 and thereafter, the Inquiry Officer has noticed following points :-

[i] The applicant had placed his claim of TA/DA for 35 months from April, 1994 to February, 1997 which were duly certified by his immediate Incharge of that period.

[ii] The applicant in OA 541 of 1998 had placed claim for continuous halt at Patna for months of April to June, 1994 but in the present case also he submitted claim for the same period showing movement from Fatuha to Danapur and back which were contradictory. This way the claim for the period April, 1994 to June, 1994 was rejected by the Inquiry Officer.

[iii] The applicant had also claimed TA/DA for such periods which were disputed so far his attendance was concerned.

[iv] The Inquiry Officer opined that "the reality of the claims stand in doubt as the genuineness of the claim and the authenticity of the certificate is under question mark.

"Hence, it is not possible to decide the quantum of real claim by considering the above factors. It becomes more difficult to do the same as there no booking register exists in office for checking."

[v] The Inquiry Officer also opined that since there was no way for

100% checking of the claim for the period July, 1994 to February, 1997, hence the claims may be admitted except the disputed period of absence if it fulfills other aspects of Railway Establishment Rules.

[vi] The Inquiry Officer also observed that when a Railway servant is directed to perform duty beyond his headquarter then ORS pass is issued to him for performing his journey, but for the period of journey he was not accompanied with ORS as he claimed that the same was not issued to him by the competent authority though he had placed requisitions. It was opined that if he had to perform official journey and had given no information to the competent authority for ORS pass, that claim would not be admissible. It was also observed that the competent authority had issued ORS pass to him as and when the applicant was supposed to perform duty at Danapur but for the rest of the period the applicant ought to have placed requisitions for the same, which he did not appear to have done.

In the result, as per the report, the claim of the applicant for TA for the period he was not having ORS pass was held not acceptable; TA could be given only for the period on which the applicant's attendance was proved in the attendance register; the journey for taking salary from Fatuha to Danapur and back might be considered for claim of TA; the journey for joining at Fatuha after his transfer from Danapur and the same from Fatuha to Danapur after his transfer from Fatuha could be considered for payment of TA; and Fatuha and Danapur being connected by Rail, no contingency under



any circumstances could be allowed.

This report was accepted by the authority.

4. So far the observation of the inquiry report that he also had claimed for DA during his stay at Fatuha, is concerned, it will appear from Annexure-R/4 to the written statement that for that OA 541 of 1994 was filed which was disposed of by this Tribunal, dismissing that application.

5. The claim made by the applicant by way of TA/DA has been summarized by the respondents at Annexure-R/14 to the supplementary written statement. Learned counsel for the respondents pointed out that the total claim of the applicant came to Rs.11,236/- in 29 sets of claims, out of which Rs.3445/- was paid on 12.01.2001 which payment is admitted by the applicant.

6. Learned counsel for the respondents has also relied upon a circular issued by the Railway Board dated 09.03.2004 specifying under what circumstances journey could be held through public transportation. This provides that if the journey is for the stations which are connected by rail, and if for that journey free pass was made available then only DA would be admissible.

7. Learned counsel for the respondents has argued that it would appear that many journeys have been claimed to have been made which were not for official purposes. However, if this argument is accepted then it would appear that the applicant for a good number of days had absented himself from duty at Fatuha and had travelled to Danapur though he was not officially required to go there. If that was the position the respondents were bound to

take proper action against him during the period. That not having been done or at least not shown to have been done, the argument of the learned counsel for the respondents on this score cannot be accepted particularly when the claims are authenticated by superior officer of the applicant.

8. Now, this litigation has to come to an end. Fact remains that the TA bills of the applicant were duly authenticated by his immediate superior. Therefore, I direct that the claims of journey as made by the applicant would be considered as base, and the claim would be examined under following parameters by the respondents :-

[i] If it is ascertained that that for any disputed period ORS was provided, those charges for journeys through private conveyance would be deleted.

[ii] If it is proved by record that on a particular day the applicant, who already has superannuated, was absent unauthorisedly, the claim for that period should also be rejected.


[iii] If any claim beyond TA/DA has been made which is otherwise not in accordance with rules, that be also deleted. This will include the claim for travelling to Danapur from Fatuha for the months of April, 1994 to June, 1994 if in OA 541 of 1998 the applicant had made specific claim that he had remained at Patna during that period..

A memorandum shall be kept with the respondents for rejecting particular claims.



[iv] Those claims which are not rejected as per above parameters, would be calculated and paid to the applicant minus the amount already paid. This should be done within three months of receipt of a copy of this order. If that is not calculated and paid within this period, the amount so payable would be paid with interest @ 8% p.a. starting from the date when the period so granted expires, till the claims are paid.

9. This application stands disposed of. No costs.

  
[P.K.Sinha]/VC

skj.