

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA.

O.A. No. 327 of 06

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member [ J ]

Ganesh Prasad Tanti, S/o Late Santo Tanti  
Vs.  
Union of India and Others

Counsel for the applicant : Shri N.G. Mishra  
Counsel for the respondents : Shri A.K. Singh

O R D E R [Oral]

14.12.2007

S. Srivastava, M [ J ] :- By means of this OA the applicant claims [ a ] salary for the period from 14.5.97 to 31.5.99, [ b ] arrear of salary for the month of November and December, 2001 and [ c ] to refund the recovered amount of Rs. 12,000/- from the salary of the applicant.

2. The facts, in brief, are that the applicant was appointed on 20.12.92 on the post of Gangman which was reserved for ex army personnel. On 14.5.97 the applicant was medically decategorized and found fit in category -C1 with glass. After being medically decategorized, the applicant was offered alternative appointment as Safaiwala on 01.06.99. He claims that for the period from 14.5.97



to 31.5.99, no payment of pay and allowances were made. The learned counsel has placed his reliance on Railway Board's Circular dated 29.4.99 [Annexu e-1] which says that a railway servant who fails in vision test and becomes physically incapable of performing the duties of the post, and if such a railway servant cannot be immediately adjusted against or absorbed in any suitable alternative post, he may be kept on special supernumerary post in the grade in which ~~the~~ concerned employee was working on regular basis before being declared medically unfit.

3. The respondents have given vague reply. In para 5 of the written statement the respondents allege that the applicant was sanctioned extra-ordinary leave of 180 days from 16.3.97 to 15.9.97. They further allege that after medical decategorization, the applicant never came to the office. Even then, he was given supernumerary post for three months as permissible under the rules. Thus, the respondents have failed to explain to the effect that the period from 14.5.97 to 31.5.99 was regularized as required by the rules. Even if six months leave without pay was sanctioned or appointment for three months for supernumerary post was given, the remaining period remains unexplained. Therefore, the matter is remanded to the competent authority.

4. As regards second relief, that is payment of salary for the month of November and December, 2001, the respondents have not given any reply in their

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written statement. In respect of 3<sup>rd</sup> relief, the respondents have filed supplementary written statement stating therein that no deduction of Rs. 7000/- has ever been made from the salary of the applicant. The learned counsel for the applicant, during the course of arguments, made statement that he is not pressing relief No. [iii]. As such, relief No. [iii] stands rejected as not pressed.

5. The issue of payment of salary for the period for November and December, 01 is a matter of record. Therefore, I am of the considered opinion that the case be remanded on this count as well. The case is remanded to the DRM, E.C. Railway, Danapur to deal with the claim of the applicant for payment of salary [ a ] November, & December, 2001 [ b ] for the period from 14.5.97 to 31.5.99, on the basis of the records and the Railway Board's Circular dated 29.4.99 [ Annexure A/1] and pass a speaking order. The applicant shall also be granted an opportunity of hearing and/or representation if need be.

6. With the aforesaid directions, this OA is disposed of without any order as to the costs.

  
[ Sadhna Srivastava ] M [J]

/cbs/