

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

**O.A. No. 456 of 06**

**Date of order : 12.12.07**

**CO R A M**

**Hon'ble Ms. Sadhna Srivastava, Member ( J )**

Tapeshwari Prasad Singh S/o Late Ram Kishun Prasad Singh, r/o village  
Rampur, P.O. Jamalpur, District – Munger.

**Applicant**

**By Advocate : Shri Shekhar Singh**

**Vs.**

1. The Union of India through General Manager, Eastern Railway, Kolkata.
2. Chief Works Manager, Jamalpur Workshop E.Railway, Jamalpur.
3. Chief Medical Director, E. Railway, Jamalpur.
4. Chief Medical Superintendent, E.C. Railway, Jamalpur.
5. Medical Superintendent, E.C. Railway, Jamalpur.

**Respondents**

**By Advocate : Shri Mukund Jee.**

**ORDER**

**Sadhna Srivastava, M [ J ]** :- The applicant is aggrieved with the orders dated 29.6.02, 16.11.02 and 17.8.06 whereby orders have been passed to recover the salary and allowances already paid with effect from 22.5.1996 to 14.4.02 amounting to Rs. 5,02906/- @ Rs. 5000/- per month. The first <sup>AB</sup>installment of recovery was deducted from the salary of May, 06 paid on

*AB*

1<sup>st</sup> June, 2006. Thereafter, a stay was granted by this Tribunal on 11.8.06.

Therefore, further recovery has not been made.

2. The facts are that the applicant while working as technician Gr. I, Machine Shop, in Railway Workshop, Jamalpur was injured while on duty on 26.6.95. Since he was injured on duty, he was placed on sick list under Workmen Compensation Act. Its result was that he continued to draw salary and allowances as if he was on duty. By order dated 17.8.06 he was intimated that his name had been removed from the sick list and as such he was liable to <sup>pay</sup> back the salary and allowances which he had already received for the period from 22.5.96 to 14.4.2002. The recovery @ Rs. 5000/- per month began to be made from the salary of May payable in June.

3. The dispute arose on account of the fact that the applicant after 30.9.95 began taking private treatment for some time hardly for about three weeks or so. The applicant has filed a letter dated 18.9.98 from Medical Superintendent, Eastern Railway, Jamalpur addressed to Chief Medical Director, Eastern Railway, Kolkata which shows that the applicant was further admitted in the Hospital at Jamalpur on 1.4.1996. Thereafter, he was under the treatment of Railway Hospital upto about 7.5.98. The Medical Superintendent by the aforesaid letter dated 18.9.98 had also recommended for an alternative job for him [ sedentary job]. Another letter



from Personnel Officer filed by the applicant with his rejoinder mentions that the applicant on the basis of recommendation of medical board dated 16.10.03 was given an alternative appointment with effect from 27.12.03. Thus, it is evident that except for a short period the applicant was being taken care of by the railway hospital. In any case, no action was taken by the railway administration till 17.8.06. Once it appears from the record that the applicant had attended railway hospital except for a short period, the question is whether he can be asked to refund the pay and allowances for the past period. Why action was not taken at that point of time? The letter dated 29.6.02 filed with written statement shows that the applicant was required to pay back the salary and allowances for the period from 1.10.95 to 30.<sup>50645</sup> 2002 after adjustment of leave due to him. Accordingly to calculation given in this letter 235 days leave was due to him and he was required to refund salary and allowances for 2019 days.

4. From the above facts it is clear that the applicant was attending the railway hospital throughout except for a short period. He has been found fit to be retained for a sedentary job. He is already serving. Therefore, the payment in respect of salary and allowances can be recovered from him only if there was a misrepresentation on his part. Moreover, recovery, if any, can be made after a show cause notice only. The instant case reflects that even after temporary absence of the



applicant from railway hospital, he was continued to be taken care of by the railway hospital. Therefore, the competent authority has to consider seriously whether it is a case for recovery of past salary and allowances?

5. In the above circumstances, this Tribunal is of the opinion to remand the matter to the General Manager, Eastern Railway to consider whether any recovery should be made?. If so, what amount and for what period?. The General Manager shall pass a reasoned and speaking order after perusal of entire record and proper opportunity to the applicant to represent and afford personal hearing, if necessary. This exercise shall be completed within three months from the date of receipt of copy of this order. Meanwhile, the further recovery shall continue to remain stayed as already ordered on 11.8.06 as referred to above.

6. The OA stands disposed of, accordingly, without any order as to the costs.

  
[ Sadhna Srivastava] M [ J ]

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