

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

DA.NO. 224/86

Shri T.T.Bundele,
r/o Saraf Wada, Nandgaon,
Dist. Nasik

Applicant

V/s.

Union of India
through
the General Manager,
Central Railway,
V.T. Bombay.

2. The Divisional Manager,
Central Railway, Bhusawal.

Respondents

CORAM: Hon'ble Member (A) Shri J.G.Rajadhyaksha
Hon'ble Member (J) Shri M.B.Mujumdar

Appearance :-

Mr.S.Paul Sundara Rajan
Advocate
for the Applicant

Mr.R.K.Shetty
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 2.6.1988

(PER: M.B.Mujumdar, Member (J))

The applicant entered railway service on 26.5.1949. On 25.8.1981 while he was working as Head Train Examiner at Pachora railway station, he was assaulted by another employee by name Dhansing Vansing. As the result of assault, he had to take long treatment. He was on sick list from 25.8.1981 to 26.8.1982. On 26.8.1982 he was examined by the Medical Board, Bhusaval, consisting of three medical officers. The Medical Board came to the conclusion that the condition of the applicant was not likely to improve in the near future and hence he was found unfit for all classes of railway service. On 8.7.1986 the

applicant has filed this application under Section 19 of the Administrative Tribunals Act. He has made the following prayers in the application : (1) Rs.2119/- which he has not been paid on account of gratuity. (2) Difference of salary from 26.8.1982 to 31.5.1985. (3) Rs.42,000/- as compensation for mental shock and sufferings. (4) Interest at 12% p.a. on the amount claimed.

2. The respondents have filed their exhaustive written statement.


3. We have heard Mr.S.Paul Sundara Rajan, learned advocate for the applicant and Mr.R.K.Shetty, learned advocate for the respondents. Mr.Sundara Rajan pressed only the claim for difference of salary for the period from 26.8.1982 to 31.5.1985 i.e. prayer No. (2). He did not press the prayer regarding the amount of Rs.2119/- on account of death-cum-retirement gratuity, and the prayer regarding compensation for mental shock and sufferings. He stated before us that the applicant has filed an application for compensation in the Labour Court under the Workmen's Compensation Court, Nashik.

4. We may point out that the birth date of the applicant is 26.5.1927 and in ordinary course he would have retired on 31.5.1985. As he was found medically unfit on 26.8.1982, the applicant has claimed arrears of salary from 26.8.1982 to 31.5.1985.

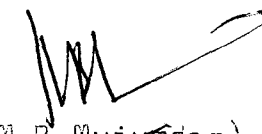
5. But the respondents have stated in the written statement that invalid pension of Rs.453/- is already sanctioned to the applicant and he has commuted one-third of it and received the commuted value of that pension.

He is also getting Rs.204/- as relief on pension. These amounts of pension and relief are bound to change from time to time. The fact that the applicant is getting pension along with the relief on pension was not disputed before us on behalf of the applicant.

6. No rule or any other provision of law was shown to us on behalf of the applicant to show that he is entitled to salary from the date of invalidation till the date of retirement on superannuation. The applicant was not in service from 26.8.1982. Hence, in our opinion, he was not entitled to any salary from that date. We, therefore, find no merit in this application and hence dismiss the same with no orders as to cost.



(J.S. Rajadhyaksha)
Member (A)



(M.B. Mujumdar)
Member (J)