

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

TR.APPLICATION NO.352/86.

Shri.V.L.Narasimhan,
Inspector of Works,
Central Railway,
C/o Dy.CE(C)SEGL/Pune,
Tadiwala Road,
Pune-1

.. Applicant
(Original Plaintiff)

Vs

Union of India through
The General Manager, C.Rly.,
C.Rly.Bombay V.T.
Bombay - 400 001.

.. Respondent
(Original Defendant)

Coram: Hon'ble Vice Chairman B.C.Gadgil

Appearance:

1. Applicant in person.
2. Shri N.R.Bhausar
(for Shri D.S.Chopra)
Advocate for the
Respondents.

ORAL JUDGMENT

Dated: 4.12.1987.

(PER: B.C.Gadgil, Vice Chairman)

Regular Civil Suit No.1612/81 of the file of the Civil Judge Senior Division Pune is transferred to this Tribunal for decision and the same is numbered as Transferred Application No.352/86.

2. Heard the applicant in person and Mr.N.R.Bhausar (for Mr.D.S.Chopra) for the respondents.
3. The applicant (Original Plaintiff) is a Railway Employee. In the years 1979-81 he was Inspector of Works Gr.III with his Headquarters at Pune. He has made certain travelling allowance claims. However the department rejected some items while passing the claims and the claims were passed for a reduced amount. The applicant contends that such reduction is illegal. There are also some more claims viz., (i) the salary for 16.3.1981 and (ii) claim
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is for the railway fare of Rs.283 for his journey to Nagpur and back. He is eligible nine holidays. Under the rules a railway employee is entitled to claim National Holiday Allowance (NHA) at a rate of Rs.25/- per day, if he works on such holidays. The applicant claims that he has worked on eight of these holidays, but he has not been paid the said allowance. This in substance is the groupwise division of the claims made by him in the suit.

4. The respondents have resisted the suit by filing their written statement. When the matter was fixed for hearing on 20.10.1987 I directed the respondents to prepare a claimwise statement and to mention therein the reasons for not accepting the claim. Accordingly the respondents have produced such a statement and it forms part of the record. Thus the matter is now crystalised and it will be convenient and easy to resolve the dispute between the parties. I would, therefore, consider various claims made by the applicant and decide about their correctness or otherwise.

5. As for as the claim for wages on 16.3.1981 is concerned the applicant has contended that he was on duty on that day while according to the respondents the applicant was not in the office upto 1330 hours. The applicant frankly stated before me that he is not pressing this claim as he did not intend to make a controversy as to whether he should be believed or his superior officer should be believed. Thus the claim does not survive as not pressed.

6. On 24.5.1980 the applicant was to proceed on duty to Nagpur. He is entitled to have a railway pass for such journey. His contention is such pass was not given to him in good time and therefore he left Pune after purcha-

sing railway tickets. He has thus spent Rs.283 for his journey for Nagpur and back. His claim for this amount has been rejected by the department on the ground that the applicant was at fault in not collecting the pass that was kept ready on 24.5.1980. The applicant submits that there was nothing which would compel him not to collect the pass if it was really kept ready in good time. He also submitted that as a man of ordinary prudence he would not have spent Rs.283/- for the journey when he could have availed the facility of the railway pass. According to him he spent the amount because pass was not given to him. There is much substance in the contention of the applicant. It may be that the department prepared the pass on 24.5.1980. However, the applicant was not able to get it in good time before commencement of his journey to Nagpur and back. Thus the claim of Rs.283/- is quite legal and proper and thus accepted.

7. The applicant is entitled to enjoy nine holidays. He has claimed National Holiday Allowance for eight of them as he had worked on those days. I would divide those eight holidays into two groups viz., 26.1.1980; 14.2.1980; 20.10.80 8.11.1980 and 25.12.1980. The applicant has already proceeded on tour on a day or two earlier to these five ^{holi} days (Group-1). He was at the outstation on these five days and returned to the head quarters on a day or two later than these days. He has been paid DA for these days. However, the National Holiday Allowance was refused. Obviously the applicant was on duty on these days and that too away from the head quarters. It would not be possible for the respondents to contend that the applicant should have enjoyed these holidays and that he could not claim the allowance. The claim for these five days is thus quite legal and proper.

8. The second group consist of three days viz., 14.4.1980; 13.9.1980 and 2.10.1980. It is common ground that the applicant attended the office on these days. He has signed the Muster. I am told that the said muster is checked by the superior officer almost every day. Thus there is no dispute that the applicant did work on these ^{three} days and did not enjoy the holidays. The contention of the respondents is that the applicant should have taken previous permission of his superiors to work on these three days and that in the absence of the permission he cannot claim any allowance. In my opinion the fact that the applicant worked on these days coupled with the fact that he has signed the muster roll which is checked by the superior officers almost every day would negative the contention of the respondents that permission of the superior is not taken. Atleast the circumstances are such that the permission can be implied. Hence this claim is also allowed, for the total claim amount of Rs.200 for eight days at a rate of Rs.25/- per day as National Holiday Allowance.

9. The last item is about the reduction of the TA Claims for six months viz., August 1979; February 1980; April 1980; May 1980; June 1980 and October 1980. As for as the claim of August 1980 is concerned, the applicant frankly stated that he has committed a mistake in claiming an amount of Rs.23.63. He also stated before me that the remaining claim for that month is very paltry and he is not pressing it.

10. It is now necessary to consider the claim for the remaining five months. It is not necessary to give the details of the reduction of the part of the claim. However, I will generalise the contention of the respondents.

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Whenever the applicant proceeded on tour on a particular day by train, the respondents contend that the applicant should have started from the head quarters by a later train and that instead of that he started a few hours earlier. Thus the daily allowance for these few hours is not acceptable to the department. As for as the return journey is concerned, the contention of the respondents is that the applicant took a late train and that instead of that he should have travelled by a train which was available a few hours before.

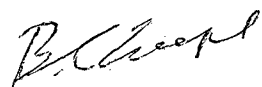
11. The applicant has made a statement before me in writing that he could not catch the later train for his outward journey as no reservation was available and that reservation by earlier train was available. Similarly about the return journeys he has stated that he was not able to get reservation by earlier train and hence he travelled by later train in which he could get reservation. It must be noted that such late or early travel as contended by the respondents has made a difference of only a few hours. In my opinion it will not be possible for the department to reject that claim particularly when the applicant has given an explanation as to why he did not proceed for onward journey by a late train or did not catch an earlier train on his return journey. Under these circumstances I think that the department should not have rejected the claim to the extent of Rs.414.12.

12. Before closing I must say that the original claim in the suit of the applicant was much more. However, during the pendency of this litigation the respondents have paid some of the claims and hence I have discussed in this judgment only those claims over which the dispute remains in existence.

13. Thus the net result is that the applicant is entitled to the three claims as mentioned above viz., Rs.283/- + Rs.200/- + Rs.414.12, the total of which comes to Rs.897.12 (Rupees eight hundred ninety seven and paise twelve only). The applicant prays that he should be awarded the costs of the suit as also interest of the claim amount that would be allowed by me. I think that this is a fit case in which the applicant should get interest at 10% per annum. As for as the cost is concerned in my opinion the applicant should get part of the cost viz., the court fee amount of Rs.175/- Hence I pass the following order:

O R D E R

The respondents are directed to pay to the applicant an amount of Rs.897.12 (Rupees eight hundred ninety seven and paise twelve only) together with interest at 10% per annum from 31.8.1984 till payment. In addition the respondents should also pay Rs.175/- (Rupees one hundred seventy five only) towards the costs of the litigation. These directions are to be obeyed within a period of four months from to-day.


(B.C.GADGIL)
VICE CHAIRMAN