

(07)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.919/89

M.C.Mathew,  
17,Daze Co-op.Hsg.,Society,  
Chincholi, Malad(West),  
Bombay - 400 064.

.. Applicant

vs.

1. Union of India  
through  
General Manager,  
Central Railway,  
Bombay V.T.
2. Chief Personnel Officer,  
Central Railway,  
Bombay V.T..
3. Secretary,  
Ministry of Petroleum and  
Chemicals,  
Govt. of India,  
New Delhi.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava  
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,  
Member(A)

Appearances:

1. Mr.N.K.Srinivasan  
Advocate for the  
Applicant.
2. Mr.J.G.Sawant,  
Advocate for the  
Respondents.

ORAL JUDGMENT: Date: 20-8-1991  
(Per U.C.Srivastava,Vice-Chairman)


By means of this application the applicant who was working as Transportation Inspector(Chasing), in the office of the Chief Operating Superintendent's office, Central Railway was placed at the disposal of the Personnel Officer, Indian Oil Corporation Ltd. as Railway Liaison Inspector at Barauni Refinery on deputation and after retirement has claimed pensionary benefits on the ground that deputation allowance was not taken into account while granting the pensionary benefits. In this connection he had made reference to paragraph 2544(e) of the Indian Railway Establishment Code Vol.II as well as Rule 505 of the Manual of Railway


Pension Rules. The representation of the applicant was rejected by the respondents who have put in appearance and resisted the claims of the applicant and have made reference to other rules of para 2403 and 2149 to be read with para 2544 and 2546. It has been stated that the applicant remained on deputation for one year or so and he has been paid by the oil refinery and not from the consolidated fund consequently he is not entitled to count the deputation allowance towards the pensionary benefits.

2. We have heard the counsel for the parties and we are of the view that the deputation allowance should have been treated as special pay but the benefit of special pay could be availed by the officer when the special pay has been sanctioned permanently and the post is held in a substantive capacity. It is not the case here. As such the applicant is not entitled to the relief claimed by him.

3. Learned counsel for the applicant stated that even ~~xxxx~~ otherwise in view of the fact that the applicant was out of the department he would have earned promotion and he would be entitled to more salary in case he remained with the department and under the relevant rules was to be taken into account before finalisation of the pensionary benefits and he is entitled to. That may be so. But in this case no such ~~xxxxxxx~~ relief has been prayed so no order can be passed. Learned counsel for the applicant stated that of course he is yet to approach the Govt. in this behalf and he is waiting for the result of this application and his right may be reserved to agitate the matter in case the Govt. failed to grant such reliefs. It is for the applicant to approach the Govt.

for this benefit and in case this benefit is denied by the Govt. it is always open for the applicant to knock the door of the court of law for the appropriate relief. With these observations this application is dismissed. There will be no order as to costs.

  
(M.Y. PRIOLKAR)  
Member(A)

  
(U.C. SRIVASTAVA)  
Vice-Chairman