

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

O.A. No. 385 of 2005

Date of order : 21.2.2007

C O R A M

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

Mahesh Prasad Singh, S/o Late Dwarika Singh, permanent r/o village – Ramdiri, P.O. Ramdiri, District- Begusarai, at present resident of C/o Shri Ashok Kumar Singh, East Lohanipur, P.O. Kadam Kuan, Patna.

....Applicant

By Advocate : Shri Gautam Bose

Vs.

1. The Union of India through the General Manager, E.C. Railway, Hajipur.
2. The Divisional Railway Manager, E.C. Railway, Danapur.
3. The Senior D.P.O. E.C. Railway, Danapur.
4. The Chief Medical Director, Eastern Railway, Kolkata.

....Respondents

By Advocate : Shri R. Griyaghey.

O R D E R

Sadhna Srivastava, M (J):-

The applicant is aggrieved by the action of the respondents in not treating him on duty for the period from 20.3.2001 to 30.9.2002.

2. The facts are that the applicant was initially appointed as



Assistant Station Master on 13.2.1975. Thereafter, in due course, he was promoted and posted as Yard Master at Patna Junction of Railways. It was safety category post, and therefore, subject to periodic medical check-up. Accordingly, the applicant was first examined by CMS, Danapur on 20.3.2001. Subsequently, by a letter dated 4.4.2001, he was referred to the Medical Director, B.R. Hospital, Sealdah for malingering test. The applicant was subjected to check-up on various occasions in the said hospital. Finally, on 23.4.2001, it was proposed to constitute a medical board. The applicant attended the special medical board on 26.6.2001 and 30.8.2001. Thereafter, it was only by a letter dated 26.9.2002 of D.P.O, Danapur (A/3) received by the applicant on 30.9.2002 that the decision of medical board was communicated to the applicant that he was unfit for service in all categories, and as such retired with effect from fore-noon of 19.9.2002.

3. The respondents have not disputed in their reply the above said facts.

4. The applicant claims that in the above circumstances where the period of medical examination was extended beyond his

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control, he was entitled to be treated on duty. The respondents have not come forward with the plea that the period of medical examination was extended on account of any negligence on the part of the applicant i.e., he failed to appear on the date/dates called for or that he himself delayed the medical examination by making a request for change of date etc. The respondents themselves allege in para 7 of the reply that an employee is to be treated on duty except when there is wilful delay on the part of the employee. Thus, the Tribunal has not been supplied any material by the respondents to come to a conclusion that there was wilful delay on the part of the applicant. However, the respondents in para 7 of their reply have also alleged that the extended period of medical examination has been regularized by granting leave due to him. Unfortunately, no document has been brought on record in support of the said contention of the respondents. Thus, the Tribunal is constrained to observe that the respondents have not carefully examined the case of the applicant as to why he cannot be treated on duty. In the circumstances, the case has to be remanded to the respondents to pass a reasoned and speaking order as to why;



- (a) the applicant cannot be treated as on duty;
- (b) what was the wilful default on the part of the applicant;
- (c) whether medical leave or full or half pay leave was due to the applicant;
- (d) why the applicant is being denied the salary for the period 20.3.2001 to 30.9.2002.

5. The above exercise shall be completed within 30 days of receipt of copy of this order. The OA is, accordingly, disposed of without any order as to the costs.



[Sadhna Srivastava] M [J]

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