

(230)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.764/92

Date of Order: 8.2.1994

BETWEEN:

Md. Khasim

.. Applicant.

A N D

1. The Divisional Railway Manager  
(Broad Gauge),  
South Central Railway,  
Secunderabad Division,  
Secunderabad.

2. The Senior Divisional Personnel Officer,  
South Central Railway,  
Secunderabad Division,  
Secunderabad.

.. Respondents.

---  
Counsel for the Applicant

.. Mr. Ethirajulu

Counsel for the Respondents

.. Mr. J.R. Gopala Rao, Secy to Rys.

---  
CORAM:

HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

HON'BLE SHRI T. CHANDRASEKHARA REDDY : MEMBER (JUDL.)

Order of the Division Bench delivered by  
Hon'ble Shri A.B.Gorthi, Member (Admn.).

---

The applicant who retired from service on 31.8.90 has filed this OA claiming for a direction to the respondents to produce all the relevant records pertaining to the claims preferred by him for the grant of "breach of rest allowance" and to further direct the respondents to pay the applicant the balance outstanding to the tune of Rs.24,000/- with interest.

2. The applicant joined South Central Railway as Pointsman on 6.1.53 and was promoted as Levaman in the year 1973. He was thereafter promoted as Assistant Guard w.e.f. 19.8.92. While he was working as an Assistant Guard he was entitled to "breach of rest allowance" under the relevant rules. His contention in this application is that the respondents paid him only Rs.9,600/- towards the breach of rest allowance whereas he was in fact entitled to much more amount than that. He thus claims that a balance of Rs.24,000/- is due to him in this regard.

3. The respondents in their reply affidavit have firstly objected to the maintainability of the application on the ground that it was filed well beyond the period of limitation because the allowance that the applicant is now claiming pertains to the period from 8.10.82 to 21.8.90. The respondents have clarified that <sup>when</sup> a proper claim is preferred by <sup>an</sup> the employee for breach of rest allowance, ~~and~~ the same after due scrutiny is passed and the allowance amount is paid to the employee along with the regular salary. It is the responsibility of the employee to

prefer the claim in the standard format called T.46-F/Rev form. The form must be submitted periodically without any delay. The respondents further contend that whatever claims were made by the applicant and were passed by the respondents amounted to the tune of Rs.9,600/- only. It is further stated by the respondents that as per extant instructions documents pertaining to such claims are liable to be destroyed after a period of 3 years or one year after completion of Audit whichever is later. Consequently no record is available with the respondents to show that the applicant is entitled to any breach of rest allowance as claimed by him.

4. In view of the non-availability of the records with the respondents, we have carefully examined the OA and the material exhibits annexed thereto. There is nothing on record before us to support the claim of the applicant for "breach of rest allowance" to the extent of Rs.24,000/-. Except for a statement that the claim pertains to the period from 8.10.82 to 21.8.90 nothing further is on record to substantiate the same. In this context Mr. Ethirajulu, learned counsel for the applicant wanted us to peruse the copies of the claims prepared and which are in the custody of the applicant. Having seen the same we are not satisfied <sup>that</sup> these are really the copies of the documents which he submitted from time to time from 1982 to 1990.

5. Another important aspect that comes up for our consideration is the delay in filing this O.A. From a letter dt. 25.2.91 from the applicant addressed to the D.R.M., S.C.Railway, it is seen that the case of the applicant is that whenever he tried to forward his claims

for breach of rest allowance the same were not accepted by the concerned Station Superintendent. This was done by the Station Superintendent for the purpose of enforcing economy. It is further stated in the said letter that the applicant was regularly threatened by the successive incumbents in the post of Station Superintendent that <sup>if</sup> he persisted with <sup>ed</sup> this claim for grant of breach of rest allowance, he would be transferred to a remote area. From this it seems that the applicant kept <sup>quiet</sup> quite at the relevant time and it was only after his retirement from service that he started representing to the authorities concerned for the grant of the balance of amount pertaining to the breach of rest allowance. The applicant was retired on 31.8.90 and this OA is filed on 4.8.92. In the <sup>interregnum</sup> interregnum <sup>2</sup> the applicant seems to be corresponding with the respondents.

6. There can be no doubt that it is <sup>the</sup> a duty of the employee concerned to submit his claims correctly and <sup>in</sup>intime. Where such a claim pertains to an allowance like breach of rest allowance it has to be submitted regularly and periodically as laid down in the relevant instructions. In any case admittedly the applicant ~~who~~ received a sum of Rs.9,600/- towards the said allowance. We cannot therefore accept the applicant's submission that he was <sup>u</sup>firbided to make such claims by <sup>those</sup> ~~any one~~ <sup>2</sup> in the authority. His claim at this stage particularly without producing before us anything to support or substantiate <sup>it</sup> his ~~claim~~ <sup>claim</sup> cannot therefore be accepted. It is often said that equity comes to the rescue of the vigilant and not to the one who slumbers over his rights for a long period of time.

.. 5 ..

7. With the afore-stated observations we find no merit in this application and the OA is dismissed. There shall be no order as to costs.

(T. CHANDRASEKHARA REDDY)  
Member (Judl.)

(A.B. GORTHI)  
Member (Admn.)

Dated: 8th February, 1994

(Dictated in Open Court )

*Pr. Regu*  
Deputy Registrar(J)

To sd

1. The Divisional Railway Manager(Broad Gauge),  
S.C.Railway, Secunderabad Division, Secunderabad.
2. The Senior Divisional Personnel Officer,  
S.C.Railway, Secunderabad Division, Secunderabad.
3. One copy to Mr.Ethi Rajulu, Advocate, CAT.Hyd.
4. One copy to Mr.J.R.Gopala Rao, MC for Rlys CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

45/8/94  
909  
18/2/94

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY  
MEMBER (JUDL)

AND

THE HON'BLE MR. P. RAMARAJAN : MEMBER  
(ADMN)

Dated: 8 - 2 - 1994.

~~ORDER~~ JUDGMENT:

M.A./R.A/C.A. No.

O.A.No.

T.A.No.

in

764/92

(W.P.No. )

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions.

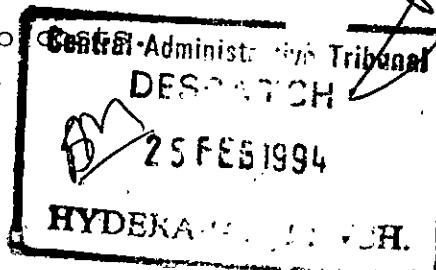
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to



pvm