

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD
D.A.NO. 206 of 1994.

(u)

Between

Dated: 24.4.1995.

M.Narayana Swamy

...

Applicant

And

Union of India Represented by:

1. General Manager, S.C.Railway, Secunderabad.
2. Chief Personnel Officer, S.C.Railway, Secunderabad.
3. FA&CAO, S.C.Railway, Secunderabad.
4. Divisional Railway Manager, (MG), S.C.Railway, Hyderabad Division, Secunderabad.
5. Sr. Personnel Officer (MG), S.C.Railway, Hyderabad Division, Secunderabad.
6. Sr. DME (MG), Hyderabad Division, S.C.Railway, Secunderabad.
7. Loco Foreman, Loco Shed, S.C.Railway, Lallaguda, Secunderabad.

... Respondents

Counsel for the Applicant : Sri. M.C.Pillai

Counsel for the Respondents : Sri. N.V.Ramana, SC for Rlys

CORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:...2/-

O.A. 206/94.

Dt. of Decision : 24-04-95.

ORDER

1. As per Hon'ble Shri A.B. Gorthi, Member (Admn.) {

The claim of the applicant is for a direction to the respondents to pay pensionary benefits under para No.501 of the Pension Manual allowing 55% of the basic pay as running allowance forming part of the applicant's emoluments.

2. The applicant joined the Railways as Shed Khaleesi on 01-06-1955. He was promoted as Fireman 'B', later as Shunter 'B' and finally to the post of Driver 'C' in the scale of Rs. 330-560 on 13-09-1975. He was medically declared unfit for A-I category but was found fit for B-I medical category in 1982. Consequently he was given the alternative appointment on 13-04-83 as Shedman in the Loco Shed, which carried the same scale of pay as that of Driver 'C'. He ~~had~~ worked in that capacity ^{till} ~~he~~ reached age of superannuation and ~~retirement~~ on 31-10-1992.

3. Shri M.C. Pillai, learned counsel for the applicant has contended that the applicant having worked in the running cadre for about two decades should be eligible for the benefit of adding running allowance to his pay at the time of his retirement for the purpose of calculating his pensionary benefits. In support of his contention he placed reliance on para 907(VIII) and 2612 of the Indian Railway Establishment Manual (Second ^(old) Edition) and judgement of the Supreme Court in Anand Bihari Vs. Rajasthan State Road Transport Corporation, Jaipur (AIR 1991 SC 1003).

4. The respondents in their reply affidavit have stated that the question of payment of running allowance to the applicant would not arise from the date he was absorbed as Shedman which is a non running post. The applicant worked as a Shedman from 1982 till the date of his retirement and accordingly he was paid the

pay and allowance due to the post of Shedman only. As he was not paid running allowance during the time that he was serving as a Shedman, the question of granting him running allowance for the purpose of calculation of his pay and his pension would not arise. In otherwords the contention of the respondents is that the applicant was not entitled to running allowance while working in the post of Shedman and as such the question of granting the same either as a part of his pay for the purpose of pension would not arise. Para 907 (VIII) of the IREM (Old Edition) Reads as under:-

"Non-running staff such as engine cleaners and khalasis qualified for running duties, when travelling as passengers before and after relieving running staff i.e., second firemen on road or when kept waiting in shed to work a train as second firemen in emergencies should be paid the pay and allowances as admissible for running staff".

The above rule is to the effect that certain categories of non-running staff - - - - - before and after relieving running staff should be paid the pay and allowance as admissible for running staff. In this regard the contention of the applicant is that though he was given the post of Shedman he was often ordered to perform running duty. The respondents categorically denied this contention. The facts also remain that the applicant, at the relevant time, did not claim any running allowance. Accordingly we cannot accept the contention that the applicant has become entitled to running allowance in terms of para 907 (VIII) of Indian Railway Establishment Manual.

5. As regards the contention of the applicant's counsel that under para 2612 of the Indian Railway Establishment Manual (Old Edition) the applicant, on being absorbed in the alternative post, will have the benefit of his past service treated as continu

The above
is correct. Para 2612 of the IREM Reads as under:-

"A railway servant absorbed in an alternative post will, for all purposes, have his past service is treated as continuous with that in the alternative post and will, if a pre-31 railway servant who has elected to remain on the pre-31 scales of pay, continue to remain eligible for such scales. He will also continue to be governed by the conditions of service applicable to him before he was declared medically unfit".

The above para is an authority to show that the service rendered in the previous post ~~would~~ ^{count} ~~some~~, for all purposes and that he ~~was~~ continued to be governed by the conditions of service applicable to him before he was declared medically unfit. The conditions of service referred to therein are the General conditions of service and not those specific to the previous post held by the employee. It goes without saying that an employee absorbed in an alternative post will have to be governed by the conditions applicable to that post and accordingly his pay and allowances etc., would be governed as related to alternative post and not to the post previously held by him.

6. In Anand Bihari Vs. Rajasthan State Road Transport Corporation (Supra) the appellant was ~~the post~~ /Driver. He was given alternative employment as a Helper from August 1985 since he developed ~~weak~~ Eye-Sight. Thereafter he was retired from service on 27th April 1988. In these circumstances the Supreme Court held that the appellant would be entitled to his retirement benefits as a Driver ~~from the date of his~~ employment as a Helper. In the case before me, the applicant was absorbed as a Shedman in the year 1983 on being medically

re-categorised from A-I to B-I. He accepted the alternative post and worked without any protest till 1992 when he retired from service. The claim of the applicant is not for grant of pension from the date of his appointment as a Shadman but for giving him the benefit of addition of running allowance to his pay and allowances for the purpose of giving him a higher quantum of pension.

7. There can be no dispute that the applicant should have become entitled to claim running allowance before the question of deciding the revision of his pension. From the facts presented in the OA, there is nothing to substantiate that the applicant while working as a Shadman, which post ~~he was in~~ he was in, is entitled to running allowance. Factually also the applicant was not paid running allowance ^{between the period from} ~~in time till~~ 1982 to 1992. Moreover, the applicant made no claim for such running allowance at the appropriate time. In view of these undisputed facts of the case, I find no merit in this OA and the same is hereby dismissed. No order as to costs.

transcript
(A.B. Gorthi)
Member (Admn.)

Dated : The 24th April 1995.
(Dictated in Open Court)

Ansari
Dy. Registrar (S)

(contd. - 6/-)

SPR

206/94

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI A.V.HARIDASAN: MEMBER (S)
AND

THE HON'BLE SHRI A.B.GORTHI: MEMBER ()

DATED 24/4/95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

D.A.NO.

in
206/94

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

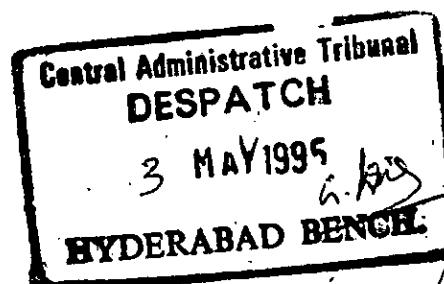
Dismissed for default

Rejected/Ordered.

No order as to costs.

No spare copy

YLKR



10

✓
20