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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1207/96

Date of Order: 16.9.97

BETWEEN :

K.Rama Rao

.. Applicant.

AND

UNION of India - represented by :

1. General Manager,
S.E.Railway,
Calcutta-43.

2. Divisional Railway Manager,
S.E.Railway, Visakhapatnam.

.. Respondents.

Counsel for the Applicant

.. Mr.Y.Subrahmanyam

Counsel for the Respondents

.. Mr.C.V.Malla Reddy

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr.Y.Subrahmanyam, learned counsel for the applicant and Mr.C.V.Malla Reddy, learned standing counsel for the respondents

2. The applicant while riding a bicycle was slipped accidentally near R&D Yard on 18.3.89 at 16.00 Hrs and injured. It is stated for the applicant that he was proceeding to attend his duties when the accident took place. The applicant was admitted in South Eastern Railway Hospital, Visakhapatnam for treatment. Sick certificate was issued as he was in I.O.D. w.e.f. 18.3.89 vide DMQ's sick certificate No.555127, dated 2.4.89. He was made fit for duty on 19.4.91 vide certificate No. MS/WHC/IOD/147, dated 18.4.91 for B-I category without sanction for hospital leave



beyond 120 days. In terms of instructions contained under Rule 554-R-I he was granted leave on the basis that the hospital leave is admissible upto 120 days only on full pay and thereafter on half pay. The applicant had applied for voluntary retirement on medical grounds, and retired on 7.8.91. The respondents authorities on his retirement recovered an amount of Rs.22,751/- from his DCRG as excess payment made to him for leave salary beyond 120 days in terms of Rule-15 of RSPR - 1993.

3. The applicant contends that the General Manager has got powers to grant hospital leave beyond 120 days in relaxation to Rule 554 as per the Advance Correction Slip No.24 (A-8). Further the Railway Board had permitted the D.R.M. to exercise that power for granting hospital leave beyond 120 days for relaxation of rule 554 R-I, 1985 with certain conditions as per the Railway Board's letter No. E(PA)I-89/JCM/DC-5, dated 14.1.93 (A-9). The applicant submits that in view of the relaxation to Rule 554 R-I he should be granted leave available to him beyond 120 days. If that is granted then the question of recovery from DCRG at the time of his retirement will not arise. It is also stated that the payment already made to him has been protected from the recovery in terms of Railway Board's letter dt. 14.1.93. The applicant had represented for granting him leave beyond 120 days also in terms of the relaxed rule 554 R-I. That representation was disposed of by the impugned order dt. 30.9.92 (A-4). It was decided that the recovery has to be affected from the DCRG.

4. Aggrieved by the above he has filed this OA to set aside the impugned order referred to above and to refund the leave salary recovered from DCRG.

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5. A reply has been filed in this OA. The respondents have stated the import of the Railway Board's letter relaxing Rule 554 R-I and on that basis it is stated that the cases that occurred during the intervening period that is from 1989 onwards where the Railways have sanctioned hospital leave for the period beyond 120 days need not be re-opened. It is further stated that there is no relaxation to Rule 554 R-I and in the instant case there is no sanction of leave average pay beyond 120 days. As the applicant was paid by the full pay average pay erroneously without sanction of amount of Rs.22,751/- it was excessively paid was withheld from DCRG and hence the impugned orders passed is according to extant rules and is not arbitrary. It is also seen from the reply that the applicant had filed W.C.1/94 in the Commissioner of Workman Compensation for assessment of loss of pending capacity. It is stated that authority had awarded an amount of Rs.68,780/- as compensation. That was challenged in the High Court of Andhra Pradesh in CMP.552/97 in CMASR 78286/96 passing interim order suspending the order of Commissioner of Workman Compensation Act, Visakhapatnam. It is not necessary for this Bench to look into the cases pending with the High Court arising out of Compensation ordered by Commissioner of Workman Compensation. The only point for consideration is whether the leave beyond 120 days can be granted to him or not due to hospitalisation.

6. In the context I feel that the impugned order dated 30.9.92 is an appealable one and R-1 can consider his representation in this connection. In view of the above the applicant is permitted to file a detailed representation to R-1 in this connection within a period of 30 days from the date of receipt of a copy of this order. If such a representation is received R-1 should dispose of the same in accordance with the rules.

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Copy to:

1. General Manager, South Eastern Railway, Calcutta.
2. Divisional Railway Manager, South Eastern Railway, Visakhapatnam.
3. One copy to Mr.Y.Subramanyam,Advocate,CAT,Hyderabad.
4. One copy to Mr.C.V.Malla Reddy,Addl.CGSC,CAT,Hyderabad.
5. One copy to B.R(A),CAT,Hyderabad.
6. One duplicate copy.

YLKR

off 2/9/97
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TYPED BY
Compared By

Checked by
Approved By

In the Central Administrative Tribunal
Hyderabad

The Hon'ble Shri R. Rangarajan: M(A)

And

The Hon'ble Shri R.S. Jai Parameshwar
M(J)

Dated: 16/9/97

ORDER/JUDGMENT

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

in

O.A. No. 1207/96

ADMITTED AND INTERIM DIRECTIONS DUED
ALLOWED
DISPOSED OF WITH DIRECTION
DISMISSED
ALLOWED
DISMISSED AS WITHDRAWN
DISMISSED FOR DEFAULT
ORDERED/REJECTED
NO ORDER AS TO COSTS.

VLKR.

II COURT

