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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.382/95

Date of order: 7.8.1998

Durga Shanker, S/o Shri Gopi Lal, aged about 61 years, Retired Fitter Grade-III from Locoshed, Western Railway Kota and R/o Ladpura Bazar, Kota-6.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway Churchgate, Bombay.
2. Divisional Railway Manager (Establishment), Western Railway, Kota Jn., Kota.

...Respondents.

Mr.Rajvir Sharma - Counsel for applicant.

Mr.Manish Bhandari - Counsel for respondents.

CORAM:

Hon'ble Mr.Patan Prakash, Judicial Member.

PER HON'BLE MR.PATAN PRAKASH, JUDICIAL MEMBER.

Applicant herein Shri Durga Shanker, has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 to seek an order/direction/command to the respondent Railways to release him the amount of DCRG and leave encashment amounting to Rs.70,000/- and 15,000/- respectively alongwith interest at the rate of 12% per annum for the delay in its payment.

2. The facts which are not in dispute between the parties are that the applicant who was initially appointed to the respondents Railways on 11.3.1959 eventually retired on 22.3.1993 while working as Fitter Gr.III in the scale of Rs.950-1500 (EP) in Locoshed, Kota.

3. It is the case of the applicant that though he was due to retire in April 1992 but he was actually retired on 22.3.93. His grievance is that the extra services rendered by the applicant with the respondent Railways has not been regularised



till today and he has not been paid the amount of DCRG and leave encashment. His efforts to get the aforesaid amount have failed. He has approached this Tribunal to claim the aforesaid reliefs.

4. The respondents have opposed this application by filing a written reply to which the applicant has also filed a rejoinder.

5. It is the stand of the respondents that though the applicant has rendered excess service with the Railways due to inadvertance on the part of the respondents, yet except an over payment of Rs.10,711/- the applicant has already been paid all other amounts including the remaining part of the DCRG as also the leave encashment. It has also been averred on the part of the respondents that the applicant's case is a clear one, where he has rendered excess service and in such circumstances the payment of the period for which he had rendered excess service is admissible only by way of fresh appointment, i.e. according to them as and when an employee renders excess service due to any inadvertance then the period of excess service is to be counted as a fresh employment and thereby for the said purpose such an employee is entitled only for salary in the minimum of the pay scale of the post. According to them, this matter has been referred by the respondent to the Railway Board for its sanction and no sooner it is received the case of the applicant would be finally settled.

6. The applicant has also admitted in his rejoinder that he has been paid the amounts as stated by the respondents in their reply; yet the payment of Rs.10711/- cannot be termed as an overpayment; since he has discharged his duties and has worked in his regular capacity.

7. I have heard the learned counsel for the respondents and gone through the pleadings. Mr. Rajvir Sharma, the learned



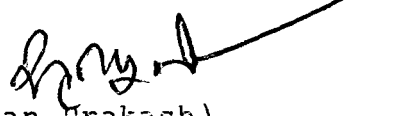
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counsel for the applicant appeared during the arguments as he comes from out of station.

8. Since the major dispute between the applicant and the respondents regarding the amount of DCRG and leave encashment has been settled and the applicant admits this fact in his rejoinder also; the only dispute now remains regarding the settlement of Rs.10711/- which the respondents assert it to be an overpayment made to the applicant due to his rendering excess service with the respondent Railways. The respondents have come with a clear stand that the matter regarding payment of excess amount of Rs.10711/- to the applicant has been referred to the Railway Board yet its decision has not been received so far. They have further asserted that no sooner the necessary sanction is granted by the Railway Board, the case of the applicant in this regard would be finally settled.

9. As mentioned above, as the major part of relief claimed by the applicant has been granted by the respondents and there remains only the settlement of the payment of excess amount Rs.10711/- to the applicant and the matter has already been referred to the Railway Board by the respondent Railways; it is directed that as soon as the respondent Railways receive the necessary orders in this regard after disposal of this O.A, they shall communicate it to the applicant forthwith. In case no communication is received by the applicant from the respondents within a period of 4 months from today, he shall be at liberty to file a fresh O.A in this matter.

9. The O.A is accordingly disposed of as above with no order as to costs.


(Ratan Prakash)

Judicial Member.