

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 18.01.2005

ORIGINAL APPLICATION NO. 546/2002

with

MISC. APPLICATION NO. 533/2002

Dinesh Chandra Saxena son of Shri P.N. Saxena by Caste Saxena, aged about 62 years, resident of 336A, Tara Nagar, Jhotwara, Jaipur. Retired S.M. from Railway Station Dabla, District Sikar.

....Applicant

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Power House Road, Jaipur.

....Respondents.

Mr. P.N. Jatti, Counsel for the applicant.
Mr. U.S. Vyas, Proxy counsel for
Mr. S.P. Sharma, Counsel for the respondents

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)
Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:

"(i) That by a suitable writ/order or direction the respondents be directed to allow the promotion in the pay scale of 2000-3200 and further this pay scale was converted as 6500-10,500 with all consequential benefits and the period from 28.2.1998 to 31.7.2000 be treated on duty and all the consequential benefits be allowed to the applicant.

(ii) That a reasonable cost of the OA be allowed to the applicant.

(iii) Any other relief which the Hon'ble deems fit."

2. During the pendency of this OA, the respondents have filed additional reply. In the Additional reply, it has been stated that the period of service from 28.2.1998 to 31.7.2000 was

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mentioned to be treated as
inadvertently 'Dies Non.' However, during the pendency of this case, the aforesaid inadvertent mistake when came to the knowledge of the answering respondents, time was sought for reconsidering the matter wherein after considering the period from 28.2.1998 to 11.1.1999 i.e. period during which the applicant was compulsorily retired and his order was in the appeal was changed to reduction in lower grade, has been treated by the competent authority to be on duty. But since after order dated 11.1.1999, which was conveyed to the applicant, the applicant had not reported for duty after issuance of the order dated 11.1.1999 and had assumed his duty on 26.7.2000, therefore, the period from 12.1.1999 to 26.6.2000 has been treated as 'Dies Non' by the competent authority. It is further stated that the period which has been *Treated* to be on duty, as per the provisions of law the applicant is entitled for all consequential benefits.

3. Today, the learned counsel for the applicant submits that he has received the payment for the period which has been *Treated* to be on duty but his grievance is that the period w.e.f. 12.1.1999 to 26.6.2000 has been wrongly *Treated* as 'Dies Non' by the competent authority. Since the grievances of the applicant has been partly redressed, the learned counsel for the applicant submits that regarding other claims, he will file a duly constituted OA and further pray that the present OA may be dismissed as withdrawn with a liberty reserved to the applicant to agitate the matter regarding other grievances.

4. In view of what has been stated by the learned counsel for the applicant, the present OA is dismissed as withdrawn with a liberty reserved to the applicant to agitate the remaining issues by filing a duly constituted OA.

5. With these observations the OA is disposed of accordingly with no order as to costs.

6. In view of the order passed in the OA, no order is required to be passed in MA No. 533/2002 for condonation of delay in filing the OA, which shall also disposed of accordingly.

A.K. Bhandari
(A.K. BHANDARI)
MEMBER (A)

M. P. Bhandari
(M. P. BHANDARI)
MEMBER (J)