

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

O.A No. 191/1997

Shri R. Chakrabarty

Applicant(s)

-VS-

Union of India & others

Respondent(s)

Mr. R. Dutta

Advocate for the Applicant(s)

Mr. J.L. Sarkar

Advocate for the Respondent(s)

Office Note	Date	Court Orders
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3.9.97

Passover on in day.

By order.

This application is in  
form and within time  
C. F. of Rs. 50/-  
deemed vice  
IPO ID No. FS/174  
Dated ... 12.8.97

4.9.97

This application has been  
filed challenging the Annexure  
A/5 order dated 29.8.96 passed on  
behalf of the Divisional Railway  
Manager (C), Lumding treating the  
period of suspension as not on  
duty, in other words not as qual-  
ifying service and also Annexure  
A/7 order by which the pay of the  
applicant has been lowered.

Heard Mr R. Dutta, learned coun-  
sel appearing on behalf of the  
applicant and Mr J.L. Sarkar, learned  
counsel appearing on behalf of the  
Railway administration. Mr Dutta  
submits that though the applicant  
was charged for major penalty but  
ultimately, he was awarded a minor  
penalty. Therefore, the period of  
suspension should be treated as  
on duty but by the impugned order  
it was not treated as on duty.

According to Mr Dutta as per  
Annexure A/4 recommendation of  
the Committee of the National

2nd - Registration

✓ 20/9/97

contd..

✓ 4.9.97 Council (JCM) the period of suspension is to be treated as duty and it was decided as follows :

"..... The Staff side of the Committee of the National Council set up to review the CCS (CC&A) Rules, 1965 had suggested that in cases where a Government servant, against whom an inquiry has been held for the imposition of the major penalty, is finally awarded only a minor penalty, the suspension should be considered unjustified and full pay and allowance paid for suspension period. Government have accepted this suggestion of the staff side. Accordingly, where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of minor penalty, the suspension can be said to be wholly unjustified in terms of FR(54-B)."

Mr Dutta further submits that lowering the pay scale of the applicant is also illegal. According to the learned counsel, being aggrieved the applicant preferred an appeal before the appellate authority which is still pending. Heard also Mr J.L. Sarkar. On hearing the counsel for the parties, we dispose of this application with a direction <sup>to the Respondents</sup> to dispose of the appeal as early as possible and at any rate within a period of one month from the date of receipt copy of this order. While disposing the appeal the contentions of the applicant <sup>shall</sup> also be considered. Till then there shall be no recovery of the amount.

Considering the entire facts and circumstances of the case we however, make no order as to costs.

9.9.97  
Copy of the order has been sent to the D/Secy. for issuing the same to applicant alongwith the L/Advocate for the Respondents.

*60*  
Member

2995 on 2996 d. 11.9.77.  
pg  
JLH

*JLH*  
Vice-Chairman