

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**  
**BENCH, JABALPUR**

**Original Application No. 909 of 2005**  
**with Misc. Application No. 317 of 2006**

Jabalpur, this the 26<sup>th</sup> day of April, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman  
Hon'ble Mrs. Meera Chhibber, Judicial Member

Moha. Naseem Siddiqui,  
Date of birth – 18.9.1967,  
S/o. Late Nazar Mohammad,  
Head Booking Clerk (Since removed),  
R/o. LIG III/394, New Subhash Nagar,  
Bhopal.

..... Applicant

(By Advocate – Shri S.K. Nandi on behalf of Shri S. Paul)

**V e r s u s**

1. Union of India, through  
its Secretary, Railway Board  
(Rail Bhawan), Ministry of Railways,  
New Delhi.
2. The General Manager,  
West Central Railway,  
Indira Market, Jabalpur.
3. Chief Commercial Manager,  
(Appellate Authority), General  
Manager's Office, West Central  
Railway, Indira Market,  
Jabalpur.
4. Divisional Railway Manager,  
West Central Railway,  
Bhopal Division, Bhopal.

..... Respondents

(By Advocate – Shri M.N. Banerjee on behalf of Shri H.B. Shrivastava)

ORDER (Oral)By Mrs. Meera Chhibber, Judicial Member -

By this Original Application the applicant has sought the following reliefs:

“(i) Summon the entire relevant record from the respondents for its kind perusal,

(ii) Command the respondents to implement the order dated 9.5.2005 and pay the arrears of subsistence allowance to the applicant as per rule from 29.10.2001 with all consequential benefits arising thereto,

(iii) Any other order/orders, which this Hon'ble Court deems, fit proper,

(iv) Cost of the petition may also kindly be awarded.”

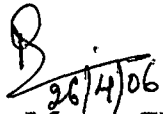
2. The respondents <sup>level 82</sup> filed their reply, wherein they have stated that in compliance with the orders passed by the Hon'ble Tribunal in OA No. 408/2002 on 25.3.2004 and order of Hon'ble High Court in WP No. 4874/2004 decided on 5.8.2004 the applicant has been treated as having deemed to have been under suspension from 29.10.2001 and he has been paid subsistence allowance regularly from 9.5.2005 onwards. The issue of payment for subsistence allowance from 29.10.2001 to 8.5.2005 was under consideration as the disciplinary proceedings are under process. However, on consideration of the matter a special pay sheet towards payment of subsistence allowance for the period from 29.10.2001 to 8.5.2005 has been passed for payment amounting to Rs. 2,28,990/-. But an amount of Rs. 1,18,613/- has been ordered to be deducted from the subsistence allowance as per provisions of Discipline and Appeal Rules, 1968. The payment are arranged by the cheque No. 315088 dated 10.4.2006 for Rs. 1,10,377/-.

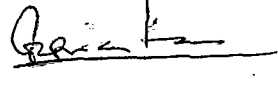
3. They have also stated that the applicant has approached this Tribunal without waiting for six months period from the date of order dated 9.5.2005 and also not waited to know the outcome of his representation dated 25.7.2005. Therefore, they have prayed that this OA be dismissed.

4. Counsel for the applicant has now filed MA No. 317/2006 seeking amendment in the OA on the ground that respondents could not have deducted any amount from the subsistence allowance to be paid to the applicant. Therefore, they have sought permission to challenge that part also in the present OA.

5. We have heard both the counsel and are of the opinion that the scope of OA cannot be enlarged at this stage. In the OA the relief sought by the applicant was to command the respondents to implement the order dated 9.5.2005 and pay the arrears of subsistence allowance as per rules from 29.10.2001 with all consequential benefits arising thereto. Now the respondents have passed an order and <sup>have</sup> made payments after making certain deductions which according to them were due from the applicant to the respondents. If applicant is aggrieved by those orders, that would constitute a fresh cause of action. Therefore, MA No. 317/2006 for amendment in the OA is rejected. However, liberty is given to the applicant to challenge those orders in accordance with law by separate OA.

6. As far as the present OA is concerned, since the respondents have already passed the orders and made the part payment of subsistence allowance to the applicant, this OA has become infructuous and is accordingly dismissed as infructuous with liberty as given above. No costs.

  
26/4/06  
(Mr. Meera Chhibber)  
Judicial Member

  
(Dr. G.C. Srivastava)  
Vice Chairman

"SA"

पृष्ठंकन सं ओ/व्या.....जबलपुर, दि.....

पलिलिपि अचो किल:-

(1) सचिव, उच्च न्यायालय दार एरोडिक्शन, जबलपुर

(2) आवेदक श्री/श्रीमती/पु.....के काउंसल

(3) प्रत्यर्था श्री/श्रीमती/पु.....के काउंसल

(4) बंधुपाल, के.ए.ए., जबलपुर कानापीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उपे रजिस्ट्रार

S. Paul Adv 788  
H. B. Shrivastava  
Adv 788

Fsslee  
2-5-06