

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 297 of 2004

Indore, this the 13th day of July, 2005

Hon'ble Shri Justice M.A. Khan, Vice Chairman
Hon'ble Shri S.K. Naik, Administrative Member

Mahendra Kumar Runwal, S/o. Shri
Ghasiram Runwal, aged about 50 years,
Resident of House No. 51, Bichlawas,
Ratlam. ... Applicant

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India and other
represented by :-

1. The General Manager, Western
Railway, Headquarters office,
Churchgate, Mumbai - 20.
2. The Divisional Rail Manager,
Western Railway, Do-batti,
Ratlam. ... Respondents

(By Advocate - Shri Vivek Saran)

O R D E R (Oral)

By Justice M.A. Khan, Vice Chairman -

This Original Application is filed by the applicant seeking direction to the respondents to treat the put off duty period as on duty and to give consequential monetary benefits and also treat the said period as qualifying service for pension etc.

2. The applicant was working as Head Booking Clerk in the Railways. While working as such he was served with a charge sheet vide memo dated 23rd July, 1987. The disciplinary proceedings were subsequently dropped vide order dated 28.11.1988. However, the period of put off duty from 25.3.1987 to 1.8.1988 has not been regularised by the authorities on the closure of the disciplinary proceedings.

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Another charge sheet was served subsequently and on the completion of the disciplinary proceedings a penalty of censure was awarded to the applicant vide order dated 11.1.1995. But no decision about the put off duty period from 25.9.1990 to 7.4.1994 has been taken by the authorities on the completion of the disciplinary proceedings. The applicant sought voluntary retirement and thereafter he came to know that there was some non-qualifying service period of 4 years, 10 months and 25 days, which has been excluded. As a result the applicant has been granted pension at lower sum than to what he was entitled to, if the put off duty service period was treated as qualifying for pension. Hence, this Original Application.

3. The respondents refuted the claim of the applicant and in the reply have stated that the applicant has remained unauthorisedly absent from 25.3.1987 to 1.8.1988 and for which disciplinary action was taken against him. It was further stated that the period of absence was adjusted against leave due and the payment has also been made and the period so adjusted has also been taken into account as qualifying service for pensionary benefits. As regards the second period from 25.9.1990 to 7.4.1994 it is alleged that the applicant was unauthorisedly absent from duty and this period has also been adjusted against the leave due to the extent of leave was due to the applicant's credit and the balance period has been treated as leave without pay and this period has not been taken into account as qualifying service for the grant of pensionary benefits.

4. In the rejoinder the applicant has reiterated his own case.

5. We have heard the learned counsel for the parties and

Subrahmanyam

have gone through the relevant records.

6. The learned counsel for the applicant has argued that so far as the first period i.e. the period from 25.3.1987 to 1.8.1988 is concerned, the same has been regularised by sanctioning the leave due and the payment has also been made to the applicant. He further argued that the said period has also been taken into account as qualifying for pension and hence, the applicant does not have any grievance in regard to that period. However, he has vehemently argued that the period from 25.9.1990 to 7.4.1994 was the period of put off duty, therefore, the respondents ought to have regularised it by sanctioning the leave and counting it as period qualifying for pension. The learned counsel for the applicant has referred to a circular GMNR No. 52E/O/126/E (D&A), dated 1.2.1985 reproduced in para 15 at page 60 of the digest of Disciplinary, Appeal & Conduct Rules written by Shri B.S. Maini. It shows that the Railway administration has deplored the tendency of certain officers in putting the staff off from duty verbally only to harass them, which was without authority and contravention of rules and that in some cases it was treated subsequently as a period on duty and in other cases it is adjusted against leave due or leave without pay. He has further argued that the applicant was also put off from duty on verbal orders. Therefore, the respondents ought to have treated this period as qualifying for pension.

7. On the other hand the learned counsel for the respondent has submitted that the applicant was unauthorisedly absent during the period from 25.9.1990 to 7.4.1994, yet the respondents have regularised it by sanctioning leave to the applicant which was due and by granting leave without pay for the remaining period. He has also submitted that the

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period of leave without pay cannot be considered towards qualifying service for pension as per rules.

8. This period of alleged put off duty of the applicant is a long period of over 4½ years. It is difficult to believe that the applicant having put off duty by his superiors on verbal orders will sit idle at home and will not protest and approach the higher authorities or if no help was forth-coming from them, approach the Tribunal or resort to other remedies for redressing his grievances, since not only he was put off from duty but also was being denied his legitimate claim for salary and allowances. No representation, complaint or any legal action was taken by the applicant for his being put off duty for such a long period. No material, facts and circumstances have been placed before us to support the claim of the applicant that he was put off duty on verbal orders of his superior officer. Rather the respondents have alleged that the applicant was unauthorisedly absent during this period. The respondents have not taken any disciplinary action against the applicant. They seem to have tried to help the applicant when he sought voluntary retirement before he had completed 20 years of qualifying service. The request of the applicant was accepted only when he had completed 20 years of service and became entitled for the retiral benefits. The respondents have also sanctioned whatever leave was due to the credit of the applicant. They have also sanctioned leave without pay for the remaining period. This period of leave without pay cannot be counted as qualifying service towards pension as per rules. No other contention has been raised by the applicant.

9. For the reasons stated above, we do not find any merit

hence

in this Original Application. Accordingly, the OA is dismissed. But the parties shall bear their own costs.

Naik
(S.K. Naik)
Administrative Member

M.A. Khan
(M.A. Khan)
Vice Chairman

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पूळंकल सं ओ/न्या.....जबलपुर, दि.....

पत्रिलिपि अंगे पिले:—

- (1) सचिव, उप्र व्यापार वाद एवं विवरण, जबलपुर
- (2) अधिकारी श्री/मिस्ट्री/कु.....के काउंसल
- (3) पर्यायी श्री/मिस्ट्री/कु.....के काउंसल
- (4) बंगाल, वोडा, जबलपुर व्यापारी
सूचना एवं आवश्यक कार्यकारी देश

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