

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

CIRCUIT SITTING AT BILASPUR

DA No. 565/04

Jabalpur, this the 17th day of May 2005.

CORAM

Hon'ble Mr. M. P. Singh, Vice Chairman
Hon'ble Mr. A. K. Bhatnagar, Judicial Member

S.L.Sonkar
S/o Late Shri Banshi Ram Sonkar
R/o Behind Railway School
Chanvari Dand, Near Shankar
Mandir, Manendragarh (Korea) (CG) Applicant

(By advocate Shri B.P.Rao on behalf of
Shri K.R.Nair)

versus

1. Union of India through
the Secretary
Ministry of Railways
Rail Mantralay, New Delhi.
2. The Senior Divisional Personnel Officer
South Eastern Railway
Bilaspur.
3. The Senior Divisional Operating Manager
South Eastern Railway
Bilaspur.

(By advocate Shri M.N.Banerjee)

ORDER

By A.K.Bhatnagar, Judicial Member

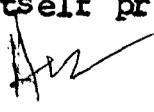
By filing this OA, the applicant has sought the following reliefs:

(i) Direct the respondents to release the wages of the applicant from 15.3.2000 to 11.9.2001 i.e. for 18 months @ Rs.16,020/- per month along with interest @ 18% p.a.

2. The brief facts of the case are that the applicant was appointed in the Railway on 3.7.1964. While working as Guard 'A' at Manendragarh, the applicant was medically declassified due to heart ailments vide CMS Bilaspur letter dated 15.3.2000. As per the provision, an employee,

after medical de-categorisation is entitled to be appointed on an alternative post which is equivalent to the post he was holding at the time of decategorisation. Respondents vide their letter dated 30.8.2000 appointed the applicant as Head Control Clerk, Bilaspur in the pay scale of Rs.5000-8000(vth PC) whereas the applicant's scale of pay was Rs.5500-9000 on the post of Sr. Pass Guard. (Annexure A1). He submitted an application against his lower posting. The applicant was directed vide letter dated 31.1.2001 to appear before the Screening Committee on 2.2.2001 for providing suitable alternative post, (Annexure A2). In compliance, the applicant appeared on 1.2.2001 before the Screening Committee, but inspite of that, no suitable alternative post equivalent to the post of the applicant was provided to him. He submitted another application through proper channel to respondents to accept his voluntary retirement with full benefits on medical grounds. The respondents considered the application of the applicant after 6 months and he was voluntarily retired w.e.f.11.9.2001. According to the applicant, he did not join the alternative job after being medically decategorised because he had submitted an appeal against his lower posting. The grievance of the applicant is that he has not been paid the salary for the period from 15.3.2000 to 11.9.2001. He submitted an application on 7.10.2003 (Annexure A7) followed by a reminder dated 20.11.2003. But no action has been taken. Hence this OA is filed.

3. Learned counsel for the applicant submitted that the applicant was posted to a lower posting after being medically decategorised by the respondents for which he made an appeal and the respondents directed the concerned authority not to spare the applicant for resuming duty on the post of Head Control Clerk which itself proved that the applicant is



entitled to receive the wages of the medically declassified period till an alternative appointment. His application for voluntary retirement was accepted w.e.f.11.9.2001 after 6 months. Therefore, the applicant is entitled to receive the wages for the period of pendency of his application.

4. On the other hand, the respondents contest the claim of the applicant by filing counter. Learned counsel for respondents submitted that as per rule vide Establishment Sl.No.122/99 which was published on 3.10.01, for payment of wages to the medically declassified staff, no pay is to be drawn in favour of declassified staff who have already been offered alternative employment but not joined the same and the rule is effective from 24.9.99. Learned counsel further submitted that the applicant was allotted alternative post on 30.8.2000 but he did not join the duty as such he is entitled only for wages for the period from 15.3.2000 to 30.8.2000 but he has already been paid salary from 31.8.2000 to 24.3.2001 and this was required to be recovered as over payment. As the relevant order was effective from retrospective date i.e. 29.9.99, the applicant is entitled to salary for the period from 3.3.2000 to 30.8.2000 only. He further submitted that as per the earlier procedure i.e. before issuing Annexure A5, medically declassified staff was being paid salary as per their leave due at their credit. Accordingly the applicant has already been paid the salary from 31.8.2000 to 24.3.01. Hence as a matter of fact, overpayment has been made to the applicant whereas he states that he has not been paid a single coin from 15.3.2000 to 11.9.01 which is not tenable. The learned counsel finally submitted that the application of the applicant for voluntary retirement has been kept pending for more than six months because the applicant submitted his application in proper manner only on 20.8.01 and the same was accepted on 11.9.01. Hence no delay has been caused by the department.

5. We have carefully considered the rival contentions of the parties and perused the records. Admittedly, the applicant was medically examined and he was medically decategorised as per medical report dated 15.3.2000 and vide order dated 30.10.2000, the applicant was posted as Head Control Clerk at BSP in the scale of Rs.5000-8000. We have also perused Annexure A4 filed along with OA which is a request of the applicant for accepting his voluntary retirement. His request was accepted and he was allowed to retire w.e.f. 11.9.2001. We have also gone through Annexure A5 dated 3.10.2001. Para 6 of the order A5 is reproduced below:

" No pay is to be drawn in favour of declassified staff who have already been offered alternative employment but not joined it."

It is an admitted fact that the applicant who was medically declassified was offered an alternative job but he did not join the same. The applicant applied for voluntary retirement which was accepted w.e.f.11.9.2001.

6. In the facts and circumstances and in view of the aforesaid discussion, we do not find the claim of the applicant justified and we do not find any merit in this case. Accordingly the OA is dismissed being bereft of any merit. No costs.

(A.K.Bhatnagar)
Judicial Member

(M.P.Singh)
vice Chairman

aa.

पृष्ठांकन संख्या ८)		प्रश्नांकन संख्या ९)
(१)	सामान्य	प्राप्ति
(२)	प्राप्ति	सामान्य
(३)	प्राप्ति	प्राप्ति
(४)	सामान्य	प्राप्ति

B. P. Rao Baw Drosy
M. H. Bawar Jee
B. P. Drosy

Issued
12
19.5.05