

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Jaipur, the 23<sup>rd</sup> day of October, 2008

ORIGINAL APPLICATION NO.223/2006

CORAM :

HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Mangi Lal  
S/o Shri Mehtab,  
R/o Barkheda Uda,  
Tehsil Baroth,  
District Mansaur.

... Applicant

(By Advocate : Shri Rajvir Sharma)

Versus

1. Union of India through  
the General Manager,  
West Central Railway,  
Jabalpur (MP).
2. Divisional Railway Manager,  
West Central Railway,  
Kota.

... Respondents

(By Advocate : Shri T.P.Sharma)

ORDER

PER HON'BLE MR.B.L.KHATRI

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

- "a) By an appropriate order or direction your  
Lordship may be pleased to direct the  
respondents to release and pay the retiral  
benefits such as pension, gratuity, leave  
encashment, P.F. and others immediately to the  
applicant. The respondents may be further  
directed to pay the arrear of such amount with

interest @ 12% p.a. The respondents may be also directed to determine the pension of the applicant payable on monthly basis throughout his life.

- b) Any other order or direction which this Hon'ble Tribunal may deem fit and proper be also passed. Since the amount has been withheld without any reason and the applicant low paid employee so an exemplary cost may be imposed on the respondents."

2. Brief facts of the case are that the applicant was appointed as Gangman in the Western Railway on 14.4.81. He was granted temporary status w.e.f. 1.1.84. His services were regularized in the year 1987. Penalty of compulsorily retirement was imposed on the applicant vide order dated 27.1.2005 (Ann.A/1). The applicant had requested the respondents to grant him the retiral benefits and pension vide applications dated 6.9.2005 and 7.11.2005 (Ann.A/3 and Ann.A/4 respectively).

3. Notice of this application was given to the respondents who filed the reply. The applicant has also filed a rejoinder. The respondents have also filed additional reply to the rejoinder.

4. I have heard learned counsel for the parties. As regards payment of retiral benefits other than pension, it was submitted by the respondents through their reply, in para 4.4, that the retiral benefits which are admissible to the applicant had already been paid to him as under :

P.F. amount	-	Rs.2127/-
Service Gratuity & Gratuity	-	Rs.34354/-
GIS	-	Rs.1273/-
Leave Encashment	-	Rs.2901/-

In the additional reply to the rejoinder, in para 4.4, the respondents have also submitted that the settlement dues i.e. PF Rs.2127/- and Leave and GSI Rs.4147/- had been credited in the account of the applicant. Subsequently, through additional reply, they have also submitted that the amount of

settlement dues i.e. PF Rs.2127/-, Leave and GSI Rs.4147/- had been credited in the account of the applicant. However, the sum of Rs.34,354/- had been adjusted against the dues as under :

Festival Advance	:	Rs.1050/-
Over Payment	:	Rs.0176/-
J.P.Bank Loan	:	Rs.33,128/-

Since the dues have been adjusted, the amount as mentioned could not be made available in his Bank Account, which has been actually sanctioned and paid to the applicant by way of adjusting the dues. Thus, the only relief, which has not so far been granted, is the payment of pension to the applicant.

5. The applicant was retired compulsorily vide order dated 27.1.2005. The Applicant had claimed that before compulsory retirement on 27.1.2005 he had rendered more than 20 years of service, whereas the respondents have submitted that his qualifying service is less than 10 years i.e. 7 years, 6 months and 7 days.

6. In para 4.5 of the OA and as per Ann.A/5, it has been submitted by the applicant that he was sick and was attended by the Railway Doctor. He remained sick from 25.8.98 to 12.9.98, 3.9.98 to 21.9.98, 5.8.99 to 16.9.99, 25.3.2002 to 31.7.2002 and 9.8.2004 to 25.9.2004, for which he had submitted leave applications with medical certificates.


7. The respondents, in reply, have submitted in para 4.4 that charge-sheet was issued to the applicant in respect of unauthorized absence from duty for the period from 19.4.2000 to 6.9.2000. However, as per the charge-sheet, the period of absence without prior intimation and permission which was considered as unauthorized is from 21.6.98 to 27.7.98.

*BAN*

8. In para 4.5 of the reply it was submitted by the respondents that it is wrong on the part of the applicant to say that he had submitted various applications by supporting medical certificates. Had there been any medical certificate, as mentioned by the applicant, then he would have definitely submitted the same before the inquiry officer or before the disciplinary authority or before the appellate authority but he did not bring any such certificate on record.

9. I have heard the contentions of both the parties and after perusal of the material on record, it is observed that in para 4.5 of the OA and as per detail of Ann.A/5, the applicant has submitted that he filed leave applications alongwith medical certificates for the period mentioned therein. Therefore, the applicant is directed to make a representation to the appropriate authority, within a fortnight from the date of this order, regarding sanction of leave for the period for which he had obtained medical certificates of the railway doctor. In the event of filing of such representation by the applicant within the stipulated period, the appropriate authority is directed to decide the same within a period of one month from the date of receipt thereof. If the said representation is allowed by the respondents, the period of absence in question may be added to the qualifying service of the applicant and if it comes to 10 years, applicant may be allowed the benefit of pension. The applicant will also be at liberty to approach this Tribunal again if he feels aggrieved by the order of qualifying service and not granting the pension.

10. With these observations, the OA stands disposed of. No order as to costs.

  
(B.L. KHATRI)  
MEMBER (A)