

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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ORDER SHEET

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ORDERS OF THE TRIBUNAL

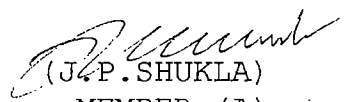
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23.4.2008

OA 321/2006

Mr. Shiv Kumar, counsel for applicant.  
Mr. N. C. Goyal, counsel for respondents.

Heard learned counsel for the parties. The  
OA stands disposed of by a separate order.

  
(J.P. SHUKLA)  
MEMBER (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

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

ORIGINAL APPLICATION NO.321/2006

CORAM :

HON'BLE MR.J.P.SHUKLA, ADMINISITRATIVE MEMBER

Rattan Lal,  
S/o Shri Padam,  
R/o Village Dhaulari Mathiya,  
Post Nehaurali, Tehsil Bayana,  
Distt.Bharatpur.

... Applicant

(By Advocate : Shri Shiv Kumar)

Versus

1. Union of India through  
General Manager,  
Central Western Railway,  
Jabalpur (MP).
2. Divisional Railway Manager,  
Central Western Railway,  
Kota Division,  
Kota.
3. Sr.Divisional Engineer (Rail Path),  
Central Western Railway,  
Kota Division,  
Kota.

... Respondents

(By Advocate : Shri N.C.Goyal)

ORDER (ORAL)

PER HON'BLE MR.J.P.SHUKLA

The short question of controversy involved in the present case is whether non-working period of the applicant i.e. six years one month and eleven days, as arrived at by the respondents, is to be counted or

not for the purpose of pension, gratuity and other pensionary benefits to the applicant.


2. Vide earlier order dated 20.11.2007, this Tribunal directed the respondents to file an additional affidavit explaining the circumstances as to why the applicant is not entitled to the gratuity/pensionary benefits on the basis of service rendered by him.

3. The respondents have filed the additional affidavit. Perusal of the same reveals that total service of the applicant has been finally worked out by the respondents as ten years and two days while considering that the applicant was removed from service w.e.f. 7.10.99, whereas the fact is that the applicant had already submitted appeal before the appellate authority against his removal from service and the said appeal was decided on 9.2.2000 (Ann.A/4) and thus finally the applicant stood compulsory retired w.e.f. 9.2.2000. As such, the total service of the applicant should have been counted upto the period 9.2.2000.

4. However, the main issue which needs to be considered is in regard to the deduction of non-working period of the applicant by the respondents for arriving at qualifying service. In view of the peculiar facts and circumstances of this case and on perusal of the documents on record and after hearing both the parties, it is observed that deduction of non-working period by respondents in this case is not justified. In view of the very fact that the appellate authority had scrutinised the case of the applicant and concluded to make the applicant compulsorily retired instead of removal, indicates that there were facts and circumstances in favour of the applicant for sympathetic consideration suggesting special circumstances beyond the control of the applicant which made him responsible for the said non-working period.

5. In the facts and circumstances of the present case and in the interest of justice, it is thus observed that on the basis of peculiar nature, facts and circumstances of the case, the respondents need to rework the calculation of the qualifying service by not deducting the non-working period of the applicant as the same was beyond his control and was not a willful absence from the duty. Accordingly, the respondents are directed to review the case of the applicant for grant of pension, gratuity and other pensionary benefits by not deducting non-working period of six years one month and eleven days and grant pension, gratuity and other pensionary benefits to the applicant accordingly. This exercise may be completed by the respondents within a period of two month from the date of receipt of a copy of this order.

6. With these observations, the OA stands disposed of with no order as to costs.

  
(J.P. SHUKLA)  
MEMBER (J)

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