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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 15.03.2012

OA No. 270/2011

Mr. Amit Mathur, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

At the request of learned counsel for the applicant, put
up the matter on 20.04.2012 for hearing.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K.S. Rathore

(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

20/04/2012

OA No. 270/2011

Mr. Amit Mathur, Counsel for applicant.
Mr. Anupam Agarwal, Counsel for respondents.

Heard.

O.A. is disposed of by a
separate order on the separate
sheets for the reasons recorded
therein.

Anil Kumar

[Anil Kumar]
Member (A)

K.S. Rathore

[Justice K.S. Rathore]
Member (J)

[Handwritten mark]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 20th day of April, 2012

ORIGINAL APPLICATION No. 270/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Kamal Meena
s/o Shri D.K.Meena,
r/o Gangapur City, Sawaimadhopur,
presently working as J.E. Special,
Gangapur City (South)
Sawai Madhopur

... Applicant

(By Advocate: Shri Amit Mathur)

Versus

1. Union of India
Through General Manager,
West Central Railway,
Jabalpur.
2. Divisional Railway Manager,
West Central Railway,
Kota Division,
Kota (Raj.)
3. Senior Divisional Engineer (CO)
Kota, West Central Railway,
Jabalpur.
4. Senior Section Engineer,
West Central Railway,
Kota Division, Kota.

... Respondents

(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)

Short controversy involved in this OA is regarding the period treated as dies-non and the applicant has prayed to quash and set aside the order Ann.A/1 and A/4 to the extent the period of removal i.e. from 19.8.2004 to 24.9.2005 has been treated as dies-non and further prayed that he may be allowed pay and allowances for that period.

2. This being second round of litigation. Earlier the applicant preferred OA No. 417/2006 and the same was decided vide order dated 18.10.2010 with following directions:

“The Revising Authority shall also look into the aspect regarding imposition of penal rent on the applicant for the aforesaid period as after modifying penalty of removal and reinstating the applicant, it cannot be said that the applicant has ceased to be a railway servant and as such his retention of the railway quarter for the aforesaid period was unauthorized. Be that as it may, it is a matter to be considered by the appropriate authority on its own merit and in accordance with rules. The above observations made by this Tribunal in the aforesaid terms have been noticed on the basis of the contention raised by the learned counsel for the applicant.”



3. Pursuant to the direction issued by this Tribunal, the Revisionary Authority has considered the case of the applicant and passed a speaking order and the Revisionary Authority was in agreement with the Appellate Authority for treating the intervening period from 19.8.2004 to 24.9.2005 as dies-non.

4. Per contra, the learned counsel appearing for the respondents submitted that since the applicant has not fully exonerated, as such, he is not entitled for counting the said period as spent on duty and so far as the period from 1.7.2005 to 24.9.2005 is concerned though the order of the Appellate Authority was passed on 1.7.2005, however, the same was received by the applicant on 3.9.2005, as such, in compliance thereof, the applicant was asked to report on duty vide office order dated 13.9.2005 and the applicant resumed duty on 24.9.2005. Accordingly, no lapse can be attributed towards the respondents.

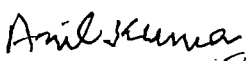
5. We have heard the rival submissions of the respective parties and carefully perused the material available on record. So far as treating the intervening period as dies-non before 1.7.2005, we do not want to interfere with the impugned order dated 7.4.2011 but we do not agree with the submissions made on behalf of the respondents that the order of the Appellate Authority was passed on 1.7.2005 and the applicant resumed duty on 24.9.2005. Therefore, in our considered view, the applicant should be treated



on duty w.e.f. 1.7.2005, the date of the order passed by the Appellate Authority.

6. Accordingly, the ends of justice will be met, if we modify the order dated 7.4.2011 to the extent that the applicant be treated on duty from 1.7.2005, the date on which the order was passed by the appellate authority, instead of 24.9.2005. The order impugned is modified accordingly.

7. The OA stands disposed of in the above terms with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/