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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.No.060/01081/2014

Date of Decision: 17.8.2015
Reserved on: 13.08.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

Surat Singh S/o Inder Singh Retd. Sr. Loco Inspector, R/o 79, Guru Har Rai Avenue, Opposite Khalsa College, Amritsar.

... Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Sr. Divisional Personal Officer, Northern Railway, Ferozepur.
3. Sr. Divisional Mechanical Engg., Northern Railway, Ferozepur.
4. Sr. Section Engineer (LOCO), Railway Station, Amritsar.

... Respondents

Present: Sh. Surinder Singh Saini, counsel for the applicants
Sh. Lakhinder Bir Singh, counsel for the respondents

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking direction to the respondents to make payment of balance leave encashment i.e. Rs.32,010/- along with interest @ 12% from the date of previous payment.

Ms _____

2. Averment has been made in the O.A. that the applicant joined Railways on 20.08.1964 as Shed Cleaner and he was promoted as Loco Inspector on 25.08.1995 in the grade of Rs.2000/3200 and lastly was promoted as Sr. Loco Inspector in the grade of Rs.2375/7500 (old) and Rs.7450/11500 (New). On superannuation he retired on 31.10.2002 with basic pay of Rs.9700/- in the old scale and Rs.12610 (New) pay scale. As per service rules, the applicant was entitled to receive all the retirement benefits with 30% extra of the basic pay being a member of running staff. He received all the service benefits including 30% extra except for the leave encashment. Copy of the Railway Board letter No.832-EW/63 dated 01.01.1993 is appended in this regard (Annexure A-2). The applicant was entitled to get leave encashment of Rs.1,76,540/- but the respondents paid Rs.1,44,530/- means Rs.32,010/- less against the entitlement as per detail given as under:

Basic Pay	Rs.9700/-
30% running allowance on basic pay	Rs.2910/-
52% daily allowance on basic pay	Rs.5040/-
Total	Rs.17,654X300/30=1,76,540/-
Grand Total	Rs.1,76,540/-
Paid by Respondents	Rs.1,44,530/-
Balance	Rs.32,010/-

The applicant requested several times to make payment of the balance leave encashment but to no avail. He then served legal notice dated 03.02.2014 (Annexure A-3) which again did not elicit any response. The applicant then filed O.A. No.060/00470/2014 before this Tribunal which

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was disposed of on 01.07.2014 with the direction to the respondent no.3 to consider and take a view on legal notice within a period of two months from the date of receipt of a copy of this order and if applicant is found entitled for the relevant benefit, the same may be granted in his favour within a month thereafter. But the respondents declined the claim vide letter bearing no.727-E/1/1749/Pen dated 03.09.2014. Hence this O.A.

3. In the written statement filed on behalf of the respondents it has been stated that the applicant superannuated as Senior Loco Inspector, Northern Railway, Amritsar and was granted pensionary benefits after adding 30% Running Allowance to the basic pay for the purpose of pensionary benefits. However, the applicant's grievance is that 30% extra has not been added for calculating his Leave Encashment. Thus, he was paid 32,010/- less than his entitlement after adding 30% extra. However, as per Railway Board's circular dated 01.01.1993 (Annexure A-2), para 5.5, 30% element is to be added to the basic pay of Loco Inspectors only for pensionary purposes and for no other purpose. Reference has also been made to the judgment dated 23.03.2009 in O.A. No.134 of 2008, V. Ramachandran Nair Vs. UOI and Others (Ernakulam Bench) wherein it was held that under Rule 1514 and 2544 of Railway Establishment Code Vol.II, 30% additional amount is added to the basic pay only for the purposes of pension and gratuity in

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case of Loco Inspectors and not for the purpose of Leave Encashment, which is not a pensionary benefit (Annexure R-1).

4. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant drew attention to the definition of pay and stated that since Running Allowance was integral part of the Pay, this had to be taken into account for computing the leave encashment amount. In this regard, he referred to Rule 903 of Running Allowance Rules, which reads as follows:

"903. Pay element in running allowance:-30% of the basic pay of the running staff will be treated to be in the nature of pay representing the pay element in the Running Allowance. This pay element would fall under clause (iii) of Rule 1303-FR-9 21(a) i.e. "emoluments which are specially classed as pay by the President."

5. On the other hand, learned counsel for the respondents referred to letter No.831-EW/63 dated 01.01.1993 issued by the Railway Board, New Delhi wherein para 5.5 reads as follows:

"For the purpose of pensionary benefits, the basic shall also include, with effect from 01.01.1993 an add-on element of 30% of basic pay in the case of Loco Inspectors. If a Loco Inspector retires before completing a period of 10 months under this Scheme, he shall be permitted the benefits of add-on element to basic pay on a pro-rata basis depending on the actual period of service under the Scheme. The benefit of add-on element to basic pay shall not be admissible for any purpose other than computation of pensionary benefits."

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6. We have given our thoughtful consideration to the matter. From the content of the letter dated 01.01.1993, it is quite clear that the benefit of add on element to basic pay is only admissible in the computation of pensionary benefits and not for the leave encashment. Hence there being no merit in this O.A., the same is rejected.

**(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER**

**(SANJEEV KAUSHIK)
JUDICIAL MEMBER**

Place: Chandigarh

Dated: 17/8/2015.

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