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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00791/2018

Thursday, this the 19th day of September, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

Shri N.Gopakumar,
Aged 55 years,
S/o Narayana Pillai,
(Retired LP/Mail/VM),
Residing at Kuzhivila Puthen Veedu,
Naduvilakara, Pullichira P.O.,
Kollam – 694 304.

....Applicant

(By Advocate M/s.Varkey and Martin)

V e r s u s

1. The General Manager,
Southern Railway,
Park Town, Chennai – 600 003.

2. The Senior Divisional Mechanical Engineer,
Southern Railway,
Tiruchirapalli Division,
Tiruchirapalli,
Tamil Nadu -620 001.

3. The Senior Divisional Personnel Officer,
Southern Railway,
Tiruchirapalli Division,
Tiruchirapalli,
Tamil Nadu – 620 001.

4. The Divisional Railway Manager,
Southern Railway,
Tiruchirapalli Division,
Tiruchirapalli,
Tamil Nadu – 620 001.Respondents

(By Advocate Mr.C.B.Sreekumar for Respondents)

This application having been heard on 18th September, 2019, the Tribunal on 19th September, 2019 delivered the following :

ORDER

OA No.791/2018 is filed by Shri Gopakumar, retired Loco Pilot/Mail, Villupuram Junction, claiming Breach of Rest Allowance for the period his services had been utilised between the years 2013 to 2017. The reliefs sought in the OA are as follows:

- I] Declare that the applicant is entitled to be paid BRA from January 2013 till his retirement on 31.10.2017 with 12% interest till date of payment and; direct the respondents accordingly.
- II] Call for the records leading to the issue of Annexure A4 and quash the same.
- III] Award costs of and incidental to this application.
- IV] Grant such other relief, which this Honourable Tribunal may deem fit and proper in the circumstances of the case.

2. The applicant, who worked as a Loco Pilot/Mail under Southern Railway, retired from service on 31.10.2017. Belonging to category of Running Staff, Loco Pilot, when their services are utilised in breach of rest period, are entitled to Breach of Rest Allowance (BRA). An extract of the relevant portion of Chapter-IX of IREM Vol-I is produced as Annexure A1. He submits that due to various personal reasons he could not verify whether his

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pay bills for the period from 2013 to 2017 had included the eligible BRA and he noticed this only when he received his last pay. He made representations to the 2nd and 3rd Respondents and even sent a reminder on 06.04.2018 to the 3rd Respondent, copy of which is at Annexure A2. This was replied to through a communication dated 12.04.2018 (Annexure A3) and further by yet another communication dated 04.06.2018, copy of which is at Annexure A4. His claim stood rejected as per this.

3. The applicant submits that he had performed his duties as per the Crew Link only, except when he was asked to work under situation mentioned in Para 901 of IREM extracted at Annexure A1. The details of his duties performed by him can be ascertained from his Crew Sign for the period from 01.01.2014 to 31.01.2014, as per the specimen marked as Annexure A6. It was the duty of the Supervisor to claim all eligible allowances on behalf of the applicant and the 2nd Respondent was required to sanction the same with the 3rd Respondent preparing the pay bill and disbursing the amount to applicant. They have failed in their duties.

4. In reply statement filed on behalf of the respondents, the arguments raised in the OA have been controverted. The applicant served as a Loco Pilot and retired voluntarily on 31.10.2017 and received all settlement benefits. Now several years afterwards, he is claiming Breach of Rest Allowance for a period from January, 2013. As per extant procedures all

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eligible allowances are to be claimed at the end of the month and that includes BRA, subject to the approval of the competent authority. In this case the representation filed by the applicant itself was made only on 06.04.2018 i.e., well after his voluntary retirement. Thus the claim is hopelessly barred by limitation.

5. Further it is stated that the applicant had got his duties adjusted breaking the Link roster. He was put on trains bound for Chennai at his personal request and his readiness to come on duty before resting at headquarters was entirely as his own personal requirement. Applicant was himself conveniently performing the duties and never claimed allowance month after month. If he had done so, his duty roster would have been altered by the administration, which he wanted to avoid.

6. Heard Shri Martin, learned Counsel on behalf of the applicant and Shri C.B.Sreekumar, Standing Counsel for the Respondent Railways. The claim for BRA for the period from 2013 to 2017 is being pressed by the applicant through this OA filed in 2018. In the ordinary course the eligible BRA is included and drawn in the monthly wage bill and the applicant could not have been unaware of this important omission. This seems to add credibility to the contention raised in the reply that duties were adjusted to suit the applicant's own convenience. Besides the format at Annexure R2 is a mandatory one for claiming BRA, the applicant himself having claimed the

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allowance by using the same. The evidence on hand points to the fact that the applicant himself had personal reasons to be put on the particular route and owing to this had chosen to remain silent about BRA. Now years after his retirement he has raised the claim as an after thought.

7. The respondents also have a valid ground in denying his claim when they point out that details of duty are maintained only for a period of three years and thus the applicant's claim from 2013 onwards cannot be entertained at this late juncture for want of documentary proof. Omission of an item in monthly salary account pertaining to a period several years ago cannot be challenged after a long passage of time. Due to the above reasons, this Tribunal comes to the conclusion that the OA lacks merit and the same is accordingly dismissed. No costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A. No.180/00791/2018

- 1. Annexure A1:** True copy of the relevant portion of Chapter IX of India Railway Establishment Manual Vol.I
- 2. Annexure A2:** True copy of the letter dated 06.04.2018 to the 3rd respondent submitted by the applicant.
- 3. Annexure A3:** True copy of the letter No.T/P.483/TV/Mech.Bills dated 12.04.2018.
- 4. Annexure A4:** True copy of the Letter No.T/M/RR/2018 dated 31.05.2018 issued by the 2nd respondent, forwarded under 3rd respondent's letter No.T/P.483/IV/Mech.Bills dated 04.06.2018.
- 5. Annexure A5:** True copy of the applicant's appeal dated 14.06.2018 to the 4th respondent.
- 6. Annexure A6:** True copy of the applicant's Crew Sign on details for the period 01.01.2014 to 31.01.2014.
- 7. Annexure R1:** Copy of letter No.T/P/483/IV/Mechl.Bills dated 12.04.2018.
- 8. Annexure R2:** Copy of the Proforma for submission of Breach of Rest Allowances every month.
- 9. Annexure R3:** Copy of the link roster for the year 2013 – 2015 dated 19.06.2013, 27.01.2014 and 09.01.2015.
- 10. Annexure R4:** Copy of Statement of Sri V.Ayyanar, OS/CRC/O/VM dated 17.03.2018.
- 11. Annexure R5:** Copy of Recommendations of the committee on running allowances dated 21.07.1981.
- 12. Annexure R6:** Copy of DPO/TPJ letter about non payment of Breach of Rest Allowances dated 04.06.2018.
- 13. Annexure R7:** Copy of Record of retention schedule, 2012.
- 14. Annexure R8:** Copy of Recommendations about Breach of Rest Allowances dated 18.11.2016.
- 15. Annexure A7:** True copy of the letter No.4/OP/3/RTA dated 11.07.2018.
- 16. Annexure A8:** True copy of the statement prepared by the applicant for the period from January, 2013 to July 2016 on the basis of the rough journey.

