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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.2373 of 2002

New Delhi, this the 12th day of September, 2002

HON'BLE SH.KULDIP SINGH, MEMBER (J)

Shri S.M.Mittal,  
C/o Col.G.S.Sandhu,  
19, Surya Niketan, Vikas Marg,  
Delhi-110092.  
(By Advocate : Shri G.S.Sandhu)

-APPLICANT

Versus

1. The Union of India,  
Ministry of Railways (Railway Board)  
Through its Secretary,  
Rail Bhawan, New Delhi-110001.
2. The General Manager Northern Railway,  
Baroda House,  
New Delhi-1.

-RESPONDENTS

O R D E R (ORAL)

The applicant has filed this OA for quashing the direction of the respondents as contained A-1 whereby the claim of the applicant with regard to the interest on the alleged delayed payment of retiral dues has been rejected.

2. The facts, as alleged by the applicant in brief, are that the applicant was working in a Senior Administrative Grade in the pay scale of Rs.5900-6700. However, he was superseded by his junior and was promoted to the rank of Principal head of department in the pay scale of Rs.7300-7600. Aggrieved by this, he filed an OA before this Tribunal and the same was allowed and respondents were directed to consider his case for promotion to the grade of Rs.7300-7600 notionally as on 30.9.96 with all consequential benefits. The applicant had retired on 31.12.96. The respondents implemented the Tribunal's order dated 27.4.2001. However, with regard to the payment of interest on delayed payment, it is stated

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that the Tribunal in CP No. 454/2000 observed that it is open to him to pursue any remedies in accordance with law, as he may be advised. So, the applicant has now filed this OA and stated that since the relief was granted to him in the earlier OA had been delayed by the respondents the applicant is thus entitled to the interest with all consequential benefits. Since by virtue of the order on the CP, the applicant had been permitted to pursue his remedies with regard to the interest in accordance with law, hence he has filed the present OA.

3. I have heard the learned counsel for the applicant and I have ensured from the applicant whether the applicant had pleaded for interest of all consequential benefits in the earlier OA or not. The orders passed in the earlier OA as quoted in para 4.2 suggests that the relief which was granted to the applicant with all consequential benefits in case the applicant was considered for the grade of Rs.7300-7600. There was no relief granted with regard to the interest. Meaning thereby this relief now prayed by him has not been granted and there was even no sanction in that behalf.

4. So, it is to be seen whether the second OA, claiming the interest on the consequential benefits is maintainable or not. In this regard, I may point out that the second OA on this aspect is not maintainable. Because the applicant had omitted to claim the relief which he is claiming now whereas claiming the same relief is barred by principles of constructive res judicata. Whatever relief applicant ought to have sought in the earlier OA cannot

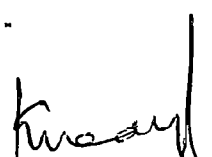


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(3)

claim again and as such the second OA filed by him is not maintainable.

5.. Hence, I am of the view that the OA is barred by principles of constructive res judicata. Accordingly, the OA is dismissed in limine.

  
(KULDIP SINGH)  
MEMBER(J)

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