

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No. 250/2002

New Delhi, this the 4th day of September, 2002

Hon'ble Shri M. P. Singh, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Harbansh Dayal Mathur
Office Superintendent (General)
DRM Office
Northern Railway, New Delhi .. Applicant
(Shri K. K. Patel, Advocate)

Versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway
State Entry Road, New Delhi .. Respondents
(Shri V. S. R. Krishna, Advocate)

ORDER (oral)
Shri M. P. Singh, Member (A)

By filing this OA, applicant seeks a direction to the respondents to take into account his ad hoc service performed in Central Organisation for Modernisation of Workshop of the Railways (COMOW) for the purpose of all service benefits in his parent cadre, i.e. Mechanical Branch with Respondent No. 2 along with all consequential benefits. By filing MA 1592/2002 he has also sought direction to stay the operation of order dated 17.7.2002 by which the pay of the applicant has been fixed in the pay scale of Rs. 7450-11500 as according to the applicant his pay has been reduced by that order.

WJ

(14)

2. The admitted facts of the case are that the applicant while working as Assistant Superintendent (AS) in the pay scale of Rs.550-750 (revised to Rs.1600-2660) under the respondent-Railway, was transferred on deputation to COFMOW in the same post on 22.8.1985. While on deputation, he was promoted to officiate as Superintendent in COFMOW in the scale of Rs.700-900 against an existing vacancy in that organisation. He continued to work in the said post ~~until 26.12.1992~~ ^{upto} and was promoted as Superintendent (Supdt.) in the grade of Rs.700-900 (Rs.2000-3200 revised) in his parent cadre substantively on 17.2.1992 as per his seniority position in his cadre and was posted as Supdt. under the Sr. DME/DSL, Tukhlakabad, against an ex-cadre post. He joined the said post on 28.12.1992. He was also given the benefit of protection of pay he drew in the earlier ex-cadre post as he had again joined an ex-cadre post. He has been working in the ex-cadre post from 28.12.92 to 24.1.2002 i.e. for a period of more than 9 years. By an order dated 25.1.2002 passed by office DRM, the applicant has been transferred in the same capacity of Supdt. in Mechanical Branch of Respondent-Railway against the existing vacancy. The grievance of the applicant is that the respondents have not given the benefit of his ad hoc service of about 15 years which he had performed in COFMOW and that by order dated 17.7.2002 his pay has been fixed at Rs.9025/- w.e.f. 1.5.2002 whereas he was drawing Rs.9700/- in the revised pay scale of Rs.6500-10500 in the deputation post. Aggrieved by this, he has filed this OA seeking the above reliefs.



(J8)

3. Heard the learned counsel for the parties and perused the records.

4. During the course of the arguments, the learned counsel for the applicant has submitted the case of the applicant is covered by the decision of this Tribunal dated 17.10.2000 in OA 325/98 (Ranbir Singh). He has also placed reliance on the ratio of the judgements of the Hon'ble Supreme Court in the cases of Narendra Chadha and Pratap Kumar Sen which provides that the ad hoc period should be counted for the purpose of benefits to the employees in their parent cadre.

5. On the other hand, the learned counsel for the respondents has submitted that by the order dated 25.1.2002, his transfer from the ex-cadre post to the Mech. Branch was ordered by the respondents as a purely administrative exercise and in the exigencies of work against an existing vacancy in the said Branch. The applicant was holding an ex-cadre post under the respondent-Railway and they had the power and jurisdiction to order his transfer back to his parent service as and when exigencies of work so demanded. Therefore, he can have no grievance against his reversion to his parent cadre simply because he has been working in an ex-cadre post. He has not complied with the said transfer order so far and has reported sick and he still continues on sick leave. The question of fixation of pay of the applicant in the parent grade can be taken up only after he joins duty in the parent cadre.



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6. Learned counsel for the respondents has further submitted that applicant's pay in the grade of Rs.6500-10500 would be fixed in terms of the instructions contained in para 4.2 of PS No.11786. The financial benefits which were being received by him for working against ex-cadre post cannot be claimed as a matter of right even after reversion to the parent cadre. The ratio of judgements of the Supreme Court cited supra by the applicant is not applicable to him as the applicant never worked on ad hoc basis. He has been working in ex-cadre post and therefore the question of counting ad hoc service for purposes of service benefits does not arise in the context of his reversion/transfer to his substantive post in the parent case.

7. We are in full agreement with the submissions made by the respondents. We also find that the judgement dated 17.10.2000 in OA 325/98 relied upon by the applicant would not render any assistance to him as the is distinguishable and not applicable to applicant's case.

8. The applicant has not been able to establish under what Rule or law, he is entitled to the reliefs prayed for by him. In view of this position, we do not find any merit in the present OA and the same is accordingly dismissed. No costs.


(Shanker Raju)


(M. P. Singh)
Member (A)

/gtv/