

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH 19

Original Application No. 1461 of 2002

New Delhi, this the 27th day of May, 2003

HON^{BLE} MR. KULDIP SINGH, MEMBER (JUDL)

Shri Chandan Singh Mannal
S/o Late Shri Prem Singh Mannal
R/o 208/1, Rly. Colony,
Kishan Ganj, Delhi.

-APPLICANT

(By Advocate: Shri R.K. Shukla)

Versus

1. Union of India through Chairman
Railway Board,
Rail Bhawan,
New Delhi.
2. General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. General Manager
(Finance Adviser & Chief Accounts)
N.R. Baroda House,
New Delhi.
4. Director (Establishment)
Ministry of Railway,
Railway Board,
Rail Bhawan,
New Delhi.
5. Dy. Chief Accounts Officer (Cash)
Northern Railway,
Multi Storey Building,
New Delhi.

-RESPONDENTS

(By Advocate: Shri R.L. Dhawan)

ORDER

By Hon^{ble} Mr. Kuldip Singh, Member (Judl)

The applicant in this OA has claimed the following reliefs:-

(a) Pass an appropriate order or direction commanding the respondents to count the past service of the applicant from 1.8.1962 to 15.6.1973 for all the

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purposes and consequential benefits including pensionary benefits.

(b) pass an appropriate order or direction directing the respondents to pay the arrears of revised pension, gratuity loan encashment of other consequential benefits after counting the previous service from 1.8.1962 to 15.6.1973 along with interest @ 18% p.a. from the date of retirement till the date of actual payment.

(c) pass an appropriate order or direction to the respondents to extend the benefits of the loyal quota to the applicant also, since the applicant had served the respondents with best of his ability during the historic strike in 1974 as such the respondents may be directed to employ one son of the applicant in Railway.

2. The cursory look would go to show that the applicant in the OA has claimed plural reliefs which violate Rule 10 of the CAT (Procedure) Rules. When confronted with this situation Shri Shukla appearing for the applicant confined his claim to only one of the relief.

3. The facts in brief are that the applicant had joined the service as Peon in the Railways on 1.8.62. Thereafter he was confirmed on 23.4.1963. The applicant



claims that he was promoted as Shroff in the Railway on 13.1.1965. However, he had fallen sick on 8.3.67 and went to his native place Almora where he remained sick till 20.8.70. After he was declared fit he submitted his medical certificates to the department but the same were not accepted. The applicant is stated to have gone on leave from 8.3.1967 to 13.3.1967 but has been declared fit on 20.8.70. However, the department had taken a decision as if the applicant has resigned from service on 8.3.67. This decision was taken sometime on 13.9.1968. Thereafter applicant made representations for regularising duty but it is submitted that the department took about three years from 20.8.70 to 15.8.73 in considering the representation of the applicant and as to whether the applicant is to be "reinstated" or "reappointed". However, the applicant was allowed to resume duty on 16.8.73 so in the first relief the applicant claims that his services from 1.8.62 to 8.3.67 which has not been counted for the purpose of retiral benefits should be counted.

4. The learned counsel appearing for the applicant submitted that it is only at the time of retirement he has come to know that this period of service has not been counted so that is why he has filed this OA at this late stage.

5. Besides that the applicant referred to a

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judgment given in TA 705/875 wherein the applicant had challenged an order dated 25.4.1985 which has already held him guilty under Railway Service Conduct Rules, 1966 and was removed from service vide order dated 2.7.85. The said TA was allowed and the proceedings which had culminated in the order of removal was quashed and the respondents were given direction to reinstate the petitioner in service with all consequential benefits.

6. The learned counsel for applicant as well as the applicant who appeared in person submitted that when these consequential benefits were allowed that also included that the period with regard to the 1.8.62 to 8.3.67 was also to be counted and he should be reinstated with back date.

7. Respondents who are contesting the OA submitted that the judgment pertained to some other misconduct on the part of the applicant and it has no relevancy with regard to the period in question because the applicant was not removed from service on account of unauthorised absence rather the department has taken considerate view on his representation and has given him re-appointment. The stand of the respondents is that the applicant was not 're-instated' after his unauthorised absence but he was 'reappointed' w.e.f. 16.6.73 and this re-appointment was also issued with the approval of the Railway Board as per Annexure R-2.

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8. The counsel for the respondents further submitted that applicant had earlier resigned on his own w.e.f. 8.3.67 which was accepted vide letter dated 25.9.1968, Annexure R-1 and after his voluntary resignation the applicant had again made a representation for re-appointment which was considered by the Railway Board and the applicant was granted reappointment. Thus it was not the case of reinstatement. The applicant had been making representation against this but no representation had ever been allowed and the case of the department throughout had been that the applicant had been reappointed and not reinstated. To this effect the counsel for the respondents also referred to the representation Annexure R-4 and the order thereon rejecting the representation which is dated 8.7.77. So the counsel for the respondents submitted that since the order rejecting his representation to consider his reinstatement has been passed in the year 1977 and applicant at this stage cannot ask that this reappointment should be converted into reinstatement and the benefit of past service should be counted towards pensionary benefits.

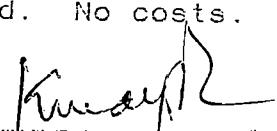
9. In my view also it is quite clear from the record that the applicant had voluntarily resigned from the service with effect from 8.3.67 and his resignation had been accepted which was conveyed to him.

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10. If the Railway authorities taking a sympathetic view had given him reappointment the applicant cannot say that he was reinstated. The applicant is also well aware that his representations for conversion of reappointment into reinstatement has been turned down so now there is no question to treat the period from 8.3.67 to 15.6.73 for the purpose of treating the qualifying service for pensionary benefits. Hence, this prayer cannot be allowed.

11. The next prayer of the applicant is that a direction be given to the respondents to extend the benefits of the loyal quota since the applicant had served the respondents with best of his ability during the historic strike of 1974. Though as per Rule 10 I should not have entertained this prayer. However, since it is an old matter so I am considering this aspect also. The learned counsel for the respondents on this aspect has pointed out that the department had introduced scheme to give employment to the wards of loyal workers who have served the Railways in the strike but this scheme had been discontinued after 1976. Hence the applicant is not entitled to get benefit of his son in the year 2003 for a scheme which was available only put 1976. So no relief on this aspect can be granted.

12. The OA is, therefore, dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

/Rajesh