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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2087/2002

New Delhi this the 24<sup>th</sup> day of April, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

R.P. Ram Pal,  
S/o late Sh. Mulkh Raj Rampal,  
R/o A-1/6, Jyoti Nagar West,  
Loni Road, Delhi-110032. -Applicant

(By Advocate Shri H.L. Bajaj)

-Versus-

Union of India through  
the Secretary,  
Railway Board,  
Ministry of Railways,  
Rail Bhawan, New Delhi-110001. -Respondents

(By Advocate Shri R.P. Aggarwal)

O R D E R

By Mr. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 28.6.2002, whereby he has been denied grant of four additional increments and consequent increase in pension as per the prospective effect of letter dated 29.5.1989. He has sought quashment of the same with direction to respondents to correctly fix his pension and pay him arrears admissible to him from 6.12.99.

2. Applicant was appointed as a Junior Draftsman on 30.5.96. He passed sections 'A' and 'B' of the Institution of Engineers (India) Examination in November, 1967 and May, 1973 respectively.

3. As per incentive scheme circulated vide Railway Board's letter dated 14.5.1966 and extended from time to time, lastly upto 30.6.88 applicant was granted a cash award of Rs.200/- on passing Section 'A' and two advance increments on passing Section 'B'. As per the

Scheme the benefit of incentives was admissible from the date following the last date of the prescribed examination and not from the date of publication of results. The scheme also stipulates that incentives are to be granted only once and not twice over.

4. However, pursuant to the recommendations of IVth Central Pay Commission, Ministry of Railways reviewed the then existing incentive scheme for giving incentive to Group 'C' employees on acquiring higher scientific/accounts/technical qualification and decided vide Railway Board's letter dated 29.5.89 to continue the scheme as such by modifying only para (d) of Board's letter dated 14.5.66, including availability of two advance increments for passing part (i) or 'A' or Intermediate or pre-final examinations and four advance increments for passing part (II) or 'B' or final examination. Increments available to Group 'C' employees were also made available to Group 'B' employees vide letter dated 4.5.1990. Being aggrieved with non-grant of increments applicant filed OA-2627/99 before this Court and by an order dated 16.8.2000, relying upon a decision of the coordinate Benches directions have been issued to respondents to grant four advance increments as per Railway Board's letter dated 29.5.89 notionally from the date of filing of the OA to applicant for the purposes of revision of his pension.

5. Applicant filed Review Application against the aforesaid decision which was dismissed in circulation. Applicant filed CWP No.7429/2000 before the High Court of Delhi, which was rejected in limine by an order dated 8.12.2000.

6. Applicant represented for complying with the directions of Court's order dated 16.8.2000 and filed CP-188/2001 which was rejected on 9.7.2001.

7. Against the aforesaid order CWP-6673/2001 filed by applicant was dismissed on 1.11.2001 with liberty to take up appropriate remedy.

8. By the impugned order, applicant's request was rejected as directions contained in Tribunal's order dated 16.8.2000 stood complied with, giving rise to the present OA.

9. Learned counsel for applicant contended that Tribunal in its earlier order dated 16.8.2000 directed grant of four advance increments notionally in terms of Board's letter dated 29.5.89 which was twice upheld by the High Court of Delhi. The benefit accorded to applicant by an order dated 16.5.2001 added only Rs.10/- per month in his pension whereas he is entitled to an increase of Rs.135/- in his pension, the action which has been done with reference to the pay drawn in 1967 and 1973 is not inconformity with Board's letter dated 29.5.89, which is prospective in nature and by an order dated 4.9.90 Ministry of Railway clarified it to be prospective in operation. In this view of the matter it is stated that the action of respondents is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

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10. However, respondents' counsel strongly rebutted the contentions and contended that the benefit of four advance increments has already been accorded to applicant with reference to his passing Section 'B' in 1973 and accordingly his pension has been revised. According to them, Board's letter of 1966, which allows advance incentive, i.e., advance increments is to be made effective with reference to the date a person qualifies Sections 'A' and 'B' of AMIE. As applicant has qualified the same in 1966 and 1973 additional increments can be given to him with reference to the scheme in force at the relevant point of time. There is no enabling provision which allows incentive increments in the scale of pay at the time when he was no longer in service in 1999.

11. Learned counsel contended that as applicant was not eligible for incentive contained in letter dated 29.5.89 which was issued in pursuance of recommendations of IVth Central Pay Commission, reply sent to him was correct and as per rules.

12. I have carefully considered the rival contentions of the parties and perused the material on record. The entitlement to the incentive, i.e., six advance increments as emanated from Railway Board's letter dated 14.5.66 are continued till 30.6.88 and by Board's letter dated 20.5.99 in pursuance of recommendations of IVth Central Pay Commission. The same was further continued except modification of clause (d). Even if one of the provisions is modified the fact remains that entitlement for incentive for acquiring higher scientific/technical qualifications is still governed by

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the Board's letter dated 1966, which, inter alia, includes two advance increments and modified four advance increments admissible from the date following the last date of the prescribed examination. As such applicant would have drawn increments in the pay scale as prevalent in the year 1973 when he passed part 'B' of the examination. Mere modification would not make the effect of Board's letter dated 14.5.66 as prospective. The increments relate back to the date of passing the relevant examination.

13. The contention of applicant that by a letter dated 4.9.90 Railway Board has clarified that letter dated 29.5.89 would be prospective and would be of no help to applicant, as in the aforesaid letter it is also observed that cases occurring between 30.6.88 and 29.5.89 would be governed by the earlier incentive scheme.

14. As applicant has been rightly accorded the incentive increments, I am of the considered view that decision of the Tribunal dated 16.8.2000 in OA-2627/99 has been correctly, as per the rules, implemented by the respondents. The contempt petition was rightly rejected and this order has been upheld by the High Court. However, on liberty by the High Court applicant has filed this OA.

15. For the foregoing reasons I am of the considered view that there is no error committed by the respondents in revising the pension of applicant on accord of incentive increments to him. Accordingly the OA is found bereft of merit and is dismissed. No costs.

S. Raju  
(Shanker Raju)  
Member (J)