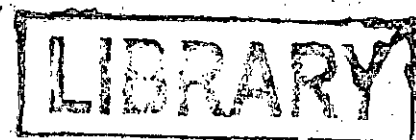


CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH



O.A.350/1741/2016

Date of Order: 4.5.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member



Biswarup Ojha, S/o Shri Chittaranjan Ojha, aged about 55 years, working as Sr. Section Engineer (W), under the overall control of General Manager, CLW, Chittaranjan at present residing at Street No. 6, Qtr. No. 5A, CLW Chittaranjan District-Burdwan, PIN-713331.

.....Applicant

Vrs.

1. Union of India, through the General Manger, CLW, Chittaranjan, Dist. Burdwan, PIN-713331.
2. Chief Personnel Officer, CLW, Chittaranjan, Dist. Burdwan, PIN-713331.
3. Chief Engineer (Civil), CLW, Chittaranjan, Dist. Burdwan, PIN-713331.
4. Financial Adviser ad Chief Accounts Officer, CLW, Chittaranjan, Dist. Burdwan, PIN-713331.

.....Respondents

For the Applicant(s): Mr. C.Sinha, Counsel

For the Respondent(s): Mr. A.Mondal, Counsel

ORDER**Bidisha Banerjee, Member (J):**

This O.A. has been preferred to seek the following reliefs:

*"a) To set aside and quash the Impugned Office Order No. GMA/TA/FIXATION/861 dated 06.07.2013 issued by Senior Personnel Officer (PC) for Chief Personnel Officer, CLW, Chittaranjan.*

*b) To direct the respondents to cause them to act in terms of RBE No. 40 of 2012 dated 23.03.2012 and restore the pay of the applicant to Rs. 14470/- in pay Band of Rs. 9300-34800 + GP of Rs*

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4200 by giving one increment in terms of RBE No. 40 of 2012 with all consequential benefits.

c) To direct the respondents to refund the amount so recovered from applicant's salary.

d) Any other order or orders as to this Hon'ble Tribunal deems fit and proper."



2. The grievance of the applicant in a nutshell is that he was working as Jr. Engineer-I (W) and was promoted to the post of Section Engineer (W) in the scale Rs. 6500-10500/- and fixation of pay was granted vide Office Order dated 07.03.2006. Further, he was granted an increment in terms of RBE 40/2012 which was withdrawn vide Office Order dated 06.07.2013 without issuing any show cause notice and his representations have not yet been considered and disposed of.

3. The respondents have refuted the claim in the following words:

The applicant has been promoted to the post of Section Engineer (W) in the scale Rs. 6500-10500/- w.e.f. 14.02.2006 and opted for fixation of pay from the date of his increment i.e. 01.05.2006 and, accordingly, his pay has been fixed vide Office Order dated 07.03.2006 (Annexure-R/5 to the reply). But,, later on Associated Finance of CLW has turned down the additional increment on 01.01.2006 clarifying in their letter No. AC/ENG/O/RTI dated 12.05.2014 vide Annexure-R/8 that "Rly Bd has specifically stated in their letter dated 23.02.2012, RBE No. 40/2012 (Annexure-R/6), that those railway employees who were due to get their normal increment between Feb, 2006 and June, 2006 may be granted an additional increment on 01.01.2006 in the pre-revised scale of pay as one time measure. In this regard, RBE No. 06/2003 (Annexure-R/7) may also be gone

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through. No increment would be allowed if the staff concerned earned promotion before earning his normal increment.

However, in this case, fixation of pay on promotion has been allowed on 01.07.2006 by allowing two increments due to exercising option. The applicant has earned promotion w.e.f. 14.02.2006 whereas his normal annual increment was due on 01.05.2006. He exercised his option for fixation of pay w.e.f. 01.05.2006. So the normal annual increment may not be antedated w.e.f. 01.01.2006.

Further, that had he not been promoted w.e.f. 14.02.2006 he would have availed rule as quoted supra. The rule applies for the situation what prevailed before 01.01.2006, i.e. effect of 6<sup>th</sup> CPC. However, after 01.01.2006 there is no provision for increment in the month of May. Promotional increment and normal increment thereafter have been given in the month of July by allowing two increments.

And, that reply has already been communicated to the applicant through Dy. CPO(W) in reply to the RTI case vide this office letter No. GMA/TA/RTI(1)/861 dated 26.05.2014 (Annexure-R/9).

4. The reply dated 30.09.2013 reads as under:

*"In reference to your above letter the following information are furnished below:*

*In terms of Railway Board's letter no. PC-VI/2012/RSRP/1 dt. 28-01-13, wherein Railway Board has specifically stated that those Rly. Employee's who were due to get their annual increment between Feb'06 to June'06 may be granted an increment on 01-01-06 in the pre-revised scale as one time measure.*

*But in this instant case Sri Ojha has earned promotion w.e.f.Feb'06. Whereas his normal increment was due on 01-05-06. He exercised option for fixation of pay w.e.f. May, 2006.*

*So, the normal increment may not be antedated w.e.f. 01-01-2006.*

*In view of the above fact, necessary action may please be taken accordingly to dispose off the case.*

*Service Record of Sri B.Ojha, SSE/WP-1 is returned herewith.*

*For FA&CAO(E)/CLW/Chittaranjan."*



5. We heard the Ld. Counsels and perused the records.

6. The representation of the applicant being decided already by way of a reasoned order dated 30.09.2013, the applicant ought to have challenged the rejection.

He has failed to dispute or contradict the statement in reply.

7. However, it is discernible that the applicant has basically claimed implementation of RBE 40/2012. The said RBE is explicit that "the President is pleased to decide that in relaxation of stipulation under Rule 10 of these Rules, those central government employees who were due to get their annual increment between February to June during 2006 may be granted one increment on 1.1.2006 in the pre-revised pay scales as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 as per Rule 10 of RS(RP) Rules, 2008. The pay of the eligible employees may be refixed accordingly".

8. The respondents have not examined his claim in the light of RBE 40/2012. Hence, the O.A. is disposed of with a direction upon the competent authority to

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re-examine the claim of the applicant in the light of RBE 40/2012 and pass appropriate order or reasoned order by 4 months.

No costs.



(Dr. Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

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