

Central Administrative Tribunal, Principal Bench

Original Application No.1497 of 2001

New Delhi, this the 30th day of December, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. V. Srikantan, Member(A)

Shri. Harnam Singh Chawla,
S/o Shri Makhan Singh Chawla,
Ex. Rajbhasha Adhikari,
Northern Railway,
Baroda House, New Delhi
R/o 224C, Motia Khan,
Pahar Ganj, New Delhi

....Applicant

(By Advocate: Ms. Meenu Mainee)

Versus

1. Union of India, through
The General Manager,
Northern Railway,
Baroda House,
New Delhi

....Respondent

(By Advocate: Shri V.S.R. Krishna)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicant joined as LDC and was promoted as Senior Punjabi Translator w.e.f. 5.6.59. The post of the Senior Punjabi Translator was made permanent from 1.1.63. The applicant alongwith certain other Urdu Translators had been pressing the respondents to amalgamate the cadre of regional languages with the cadre of Hindi Translator in order to improve their promotional avenues. After considering all aspects of the matter, the Railway Board eventually decided to amalgamate the cadre of Punjabi Translator with the cadre of Hindi Translator by an order of 10.1.90. The seniority of Punjabi Translators in the cadre of Hindi Translators was to be decided as per regular service in the grade. On the basis of the said formula, the seniority of the applicant in the scale of 1400-2300 was fixed at serial no.1. The Northern Railway



Headquarters acted on the Railway Board's letter of 10.1.90 and issued the letter dated 6.4.90 in which the seniority of the applicant in the cadre of Hindi Translators in the above said scale was fixed from 1.1.63.

2. The applicant was called for a selection test for appointment to the post of Hindi Translator in the scale of 1600-2660. He qualified in the selection test. His name is stated to have been mentioned below Shri M.S.Mathur and above Shri Govind Ram in the scale of 335-425 which corresponds to the scale of 1600-2660 from 14.4.66.

3. The applicant had earlier filed O.A.2025/94 which was decided on 27.7.99. He had contended that this pay in the scale of 1600-2660 had been fixed without any monetary benefits as fixation of pay had been done only w.e.f. 7.10.92 instead of 10.4.66. This Tribunal had considered the submissions and had partly allowed the same. The operative part of the order passed by this Tribunal reads:

"The stand of the respondents is that the applicant appeared for the test only in July 1992 and cannot now seek retrospective refixation of pay only on the ground that the seniority has been redetermined and according to them the applicant is not entitled to get any thing more than that what was given to him on his promotion. We are not really impressed by the argument of the learned counsel for the respondents that on refixation of seniority no benefit whatsoever should be admissible to the applicant in the matter of refixation of pay. It is true that the applicant appeared for the test only in July 1992 and that is on account of the subsequent development merging the post of Hindi Translators in 1990 requiring further action to be taken. The applicant was given the first opportunity to appear in the test in July 1992 and he had cleared the same in the first attempt. He was not given the chance to appear in the test in April 1966 along with Mathur and Dhyani. Subsequently his seniority

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has been placed above that of Mathur and as he had cleared the test in the first attempt he should be deemed to be eligible for holding the higher post from the date on which Mathur was given the same. At the same time, we take note of the fact that amalgamation of the cadres had been done with a view to advance promotional prospects of the Punjabi Translators to which cadre the applicant initially belonged. While the applicant will not be entitled to the actual financial benefits for the period from 19.4.1966 to 7.10.1992, we hold that in the context of the developments referred to earlier and the seniority of the applicant admittedly having been refixed w.e.f. 19.4.1966, the applicant is entitled to have his pay in the grade of Rs.1600-2660 or the corresponding pre-revised scale notionally fixed with effect from the date Shri Mathur got the pay i.e. w.e.f. 19.4.1966 and the actual financial benefit will be available to him from the date he cleared the test in July 1992. We direct accordingly. The respondents are directed to refix his pay notionally w.e.f. 19.4.1966 in the scale of 325-425/1600-2660 and the corresponding pre-revised scale from 1.1.1973 to 1.1.1986 and give him the actual financial benefits with effect from 7.10.1992 which is the date on which he passed the test. On the basis of refixation of pay whatever enhanced retiral benefits become due shall also be extended to him. The entire exercise shall be completed within three months from the date of receipt of a copy of this order."

4. Thereafter the applicant has filed the present application praying that his pay should be fixed in the grade of Rs.2000-3200 w.e.f. 28.10.1976 and he should be given the actual financial benefit from the date from which he took over as Hindi Superintendent on 20.10.92. Corresponding benefit is claimed in retirement benefits, pension and gratuity.

5. It becomes unnecessary for this Tribunal to dwell into the factual controversy that was agitated at the Bar. The above said facts which we have recited, prompts us to conclude that the present application must be held to be not maintainable and devoid of any merit. Reasons are

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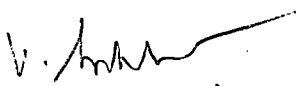
obvious.


6. The facts recited clearly show that earlier the applicant had filed the application referred to above, namely O.A.2025/94. A particular relief was claimed. Part of it had been granted.

7. The law is well settled and requires hardly any repetition in terms that a relief which was not claimed is deemed to have been waived. It is equally well settled principle that a relief even if claimed and not granted, cannot be a subject matter of a fresh application.

8. Both the submissions, in particular, which flows from the well-known dictas clearly reveal that if the applicant had not claimed the relief, he cannot do so as is being attempted in a fresh application. He is strictly bound by what has been claimed and granted in the earlier order. The said order has become final. There is no escape thus but to conclude that the present application, therefore, is devoid of any merit and is not maintainable.

9. Resultantly the O.A. must fail and is dismissed.


(V. Srikantan)
Member(A)


(V.S. Aggarwal)
Chairman

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