

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 557/1999

(26)

New Delhi this the 7th day of March, 2002.

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri M.P.Singh, Member (A)

Shri Lokesh Kumar.
S/O Shri Ganga Saran,
R/O 252/10, Shiv Lokpuri,
Kankarkhera, Meerut (UP)

(By Advocate Sh.K.C.Dubey with
Mrs Meenu Mainee) ..Applicant

VERSUS

1. The General Manager,
Northern Railway,
State Entry Road, New Delhi.
2. Divisional Railway Manager,
Northern Railway, State Entry
Road, New Delhi.
3. Union of India,
Ministry of Railways, Govt.of
India, New Delhi through its
Secretary.

(By Advocate Shri B.K.Agarwal, learned
counsel through proxy counsel Shri
Rajeev Bansal) ..Respondents

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

In Paragraph 1 of this application, the applicant states that he is challenging the action of the respondents in wilfully, deliberately and arbitrarily denying the benefits in terms of promotion and other monetary benefits pursuant to the judgement of the Tribunal in OA 468/1989 dated 8.3.1994, despite repeated representations. Learned counsel for the applicant has mentioned that it was only after filing CP 216/1996 that the respondents have complied with the directions of the Tribunal. The Tribunal in OA 468/1989 had quashed the

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impugned penalty order passed by the respondents together with the appellate authority's order and had directed that the applicant should be reinstated in service forthwith within a period of one month. It was further directed that the period of suspension should be treated as a period spent on duty for all purposes and the applicant shall be entitled to his pay and allowances from the date he is reinstated. The respondents had also ^{been} directed to pass an appropriate order regarding his entitlement of back wages and allowances for the aforesaid period, if the applicant was not gainfully engaged elsewhere during the aforesaid period.

2. Shri Rajeev Bansal, learned proxy counsel for the respondents has submitted that the entire salary and allowances for the period w.e.f. ¹³ 1.2.1983 to 31.12.1985 and 1.1.1986 to 3.1.1995 have already been paid to the applicant by order dated 16.10.1996 for Rs 23,140/- and by order dated 15.10.1996 for Rs.2,59,339/-. The respondents have also stated in Paragraph 5.7 of their reply that the applicant had remained on unauthorised absence from duty for which he was not entitled to any payment of leave salary. Learned proxy counsel has also submitted that the applicant had appeared and passed the written test for selection for the post of Booking Supervisor in the scale of Rs. 5500-9000 and had been placed on the provisional panel of Booking Supervisor issued by the respondents office order dated 16.4.1999. The applicant's claim is that he should

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have been promoted to the post of Parcel Supervisor in the same scale of Rs. 5500-9000 from the date his juniors were promoted. We see no force in the submissions made by the learned counsel for the applicant because it appears that the applicant himself has chosen to appear in the written test for selection to the post of Booking Supervisor in the same pay scale and had also qualified and had been placed in that panel by letter dated 16.4.1999. Therefore, in the facts and circumstances of the case, the applicant cannot claim promotion ^{by} in another channel i.e. to the post of Parcel Supervisor after he has voluntarily appeared for the selection to the post of Booking Supervisor.

3. With regard to the reliefs prayed for by the applicant in Paragraph 8 (b), learned counsel for the applicant has submitted that the claim amount has been paid by the respondents and, therefore, the OA has now become infructuous, excepting the claim for interest. In the facts and circumstances of the case, the claim for interest @ 18 % per annum from 1.2.1999 till the date of actual payment is rejected as there is no such order which has been given in the Tribunal's order dated 8.3.1994 in OA 468/89. Admittedly, the applicant had also filed CP 216/1996 which was disposed of by order dated 8.11.1996.

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4. Therefore, taking into account the documents on record, nothing further survives in this OA as we are satisfied that the respondents have complied with the directions given by the Tribunal by order dated 8.3.1994 in OA 468/1989. In the result, OA is dismissed. No order as to costs.

M.P.Singh
(M.P.Singh)
Member (A)

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

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