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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A.No.287/94 in
O.A.No.44/1994.

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

New Delhi, this the 13th day of September, 1994.

Shri Baldev Singh & Ors.,
By Shri S.K.Sawhney, Advocate.

..Applicant

V.

Union of India & Ors.
By Shri Romesh Gautam, Advocate.

..Respondents

(By circulation)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

This Review Application has been filed for reviewing the order passed in O.A.No.44/94 28-7-94.

2. It has been alleged that there are certain errors on the face of the record which have taken place and are to be rectified. The first point made is that instructions contained in para 228 of the Indian Railway Establishment Manual-Vol.I, 1989 Edition have been relied upon, at the time the respondents communicated the reply on 30-8-93. The contents of this paragraph with regard to erroneous promotion have been invoked by the respondents. The applicant in this review petition contends that impugned reversion has been made with effect from 1-4-1984 and hence this action is beyond the purview of the 1989 provisions. In the context I have to observe that Indian Railway Establishment Manual is a compilation of the various instructions which have already been issued by the Railway Board. The provisions in para 228 of the 1989 Edition of the Manual are contained in the Railway Ministry's Circulars No.E(NG)63/PM1/43 dated 6-9-63 and E(NG)63/PM1/92 dated 15/17-9-64 as could be made out from the para itself as well as from Master Circular No.31 on the subject of promotion of non gazetted staff issued by Railway Ministry on 31-7-1991. Thus there is no error as alleged.

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3. Apart from the above, a perusal of the reply by the respondents dated 30-6-1993 (quoted in para 3 of the orders passed in O.A. on 28-7-94) brings out that the applicants stood reverted to the lower grade post of Rs.425-700 with effect from 1-1-1984 and the recovery of differential amount of payment has been waived. In other words the payment from 1-1-84 receivable as per rules was to be reckoned in the scale of Rs.425-700. If any additional payment was made, only the recovery was condoned without legitimising the additional payment as such. Thus the average pay for the purpose of pension has to be reckoned on the pay which was legitimately due. This concept could be appreciated from a reading of para 501(4)(3) of Manual of Railway Pension Rules 1950 which is as under:-

"In cases of wrongful reversion caused by administrative errors, where on repromotion the pay of the Railway servant is fixed proforma, the emoluments that the Railway servant would have drawn but for his reversion should be taken into account."

4. The other points raised have already been discussed at the time of disposal of the O.A. Accordingly, the review petition is dismissed ^{as} being devoid of merits.

P. T. Thiruvengadam
(P.T.THIRUVENGADAM)
Member(A)

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