

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1874/1995

New Delhi, this 9th day of August, 1996

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

Shri Raj Kumar Pandit
s/o Shri Chamari Pandit
RZ/F-438, Raj Nagar 2
Palam Colony, New Delhi-45 .. Applicant

(By Shri P.M. Ahlawat, Advocate)

Vs.

Union of India, through

1. The General Manager
Northern Railway
Baroda House, New Delhi
2. The Dvl. Railway Manager
Northern Railway, Bikaner
3. Shri S.K. Sood
Asstt. Personnel Officer(T&C)
Northern Railway
Baroda House, New Delhi

(By Shri B.S. Jain, Advocate)

ORDER(oral)

Heard the learned counsel for the parties. The applicant has filed this application under Section 19 of the AT Act, 1985, praying for the following reliefs:

- (i) To direct the respondents to pay arrears of salary on fixation of his pay w.e.f. 1.3.93 in the scale of Rs.2375-3500; and
 - (ii) To revise his retirement benefits like pension etc. and payment of arrears thereon.
2. The above claims have been made by the applicant for arrears of salary and pensionary benefits after his retirement with effect from 30.4.95, claiming promotion in pursuance of the Restructuring Scheme dated 27.1.93, a copy of which is placed on record. The claim of the applicant is that his name has been included in the promotion list dated 6.9.94 but his place of posting was wrongly shown as Allahabad instead of Bikaner. Prior to that, provisional

promotion lists were issued on 30.1.94 and 8.2.94. However, it is an admitted fact that till the date of retirement of the applicant in the Bikaner Division as Chief Yard Master(CYM) he was not promoted or performed duty in the pay scale of Rs.2375-3500 but continued to be in the lower scale of Rs.2000-3500.

3. The respondents have filed their reply in which they have admitted that due to typing mistake, inadvertently the applicant had been shown in the Allahabad Division instead of the Bikaner Division, when the promotion order following the Restructuring Scheme was passed on 6.9.94. However, the learned counsel for the respondents has submitted that even though the applicant was aware of the provisional promotion lists dated 30.1.94 and 8.2.94 he had not made any representation regarding his promotion till after his retirement when he made it for the first time on 16.5.95. Further, he has submitted that on the representation being made by the applicant to the Hqrs. at New Delhi, the matter was enquired into. In this connection the learned counsel has referred to the letter of DRM, Bikaner dated 22.9.94 addressed to R-1 asking for clarifications.

4. The applicant's claim for getting the benefits of promotion with effect from 1.3.93 in the scale of Rs.2375-3500 is based on the Cadre Restructuring Scheme. In this connection, the learned counsel for the respondents has drawn attention to the letter dated 9.9.94 issued by R-1, in which it is mentioned that the officers mentioned in the promotion list from Sl.Nos.1 to 127, 150, 160, 161, 162, 175 and 176 (133 in all) may be paid arrears with effect from 1.3.93 against the upgraded posts under the Restructuring

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Scheme and the rest of the Station Superintendents/Chief Yard Masters/Traffic Inspectors will draw their pay in the higher grade of Rs.2375-3500 (RPS) from the date of their effective promotion. The respondents have submitted that the persons at Sl.Nos referred to above, other than those from 1 to 127, belong to the reserved category of SC/STs. In the reply, they have also submitted that no junior to the applicant in the general category has been promoted and given higher scale with effect from 1.3.93. However, it is the contention of the learned counsel for the applicant that after 1.3.93 some others who are junior to the applicant in the general category have been given the benefit of higher pay scale although details have not been furnished.

5. The applicant has not challenged the validity of the order dated 9.9.94. In the circumstances, having regard to the decision of the Restructuring Scheme as well as the other orders, the claim of the applicant for pay in the higher grade of Rs.2375-3500 with arrears from 1.3.93 is rejected.

6. The learned counsel for the respondents has submitted that in terms of Rule 228 of the Indian Railway Establishment Manual (IREM) Vol.I read with Railway Board's letter dated 16.10.64, since the applicant has not actually worked in the higher post before his retirement he would only be entitled to receive proforma promotion but not any arrears of pay. He also submits that as per the order of promotion issued by the Bikaner Division, which pertains to promotion in that

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Division, none of the persons mentioned in this order are junior to the applicant and hence he cannot be given any benefit prior to 2.11.94.

7. From the above facts it is seen that the respondents have themselves admitted their mistake in allotting the correct Division to the applicant, and the applicant would, therefore, be entitled to get some relief. In other words, if the respondents had passed the correct order in time, the applicant would have probably also been promoted and worked in that post, which entitles him to the higher pay scale.

8. In the facts and circumstances of the case the application is partly allowed to the extent that if the respondents have promoted any junior to the applicant in the general category, whether in the Bikaner Division or in the Allahabad Division, after 1.3.93, the applicant shall be entitled to arrears of pay from the date his junior was ^{is} promoted till the date of retirement, proforma seniority and consequent revision of pension as a result of such refixation of pay in accordance with the Rules.

9. In the result, the QA is partly allowed as above. No order as to costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member(J)
9.8.1996

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