

Central Administrative Tribunal
Principal Bench

O.A.No.1562/96

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 25th day of December, 1997

S.P.Verma
RG/Asstt. Station Master
Northern Railway
Bikaner Division
Railway Station
Rewari(HR).

Applicant

(By Shri A.K.Bhardwaj, Adovate)

Vs.

1. Union of India through
The General Manager
Northern Railway
(Bikaner Division)
Baroda House
Copernicus Marg
New Delhi.
2. The Divisional Railway Manager
Northern Railway
Bikaner Division
DRM Office
Bikaner.
3. Divisional Personnel Officer
Northern Railway
Bikaner Division
DRM Office
Bikaner.
4. The Station Superintendent
(AS/Bills), Northern Railway
Bikaner Division
Railway Station
Rewari. Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R

The case of the applicant is that while he was posted as Assistant Station Master (ASM) in the Northern Railway, he was awarded a penalty of withholding the increments temporarily for the period of three years from 1.4.1972 to 30.6.1975. Accordingly, he was entitled to all the three years increments on 30.6.1975. He further claims that during 1974 there was a strike in the Northern Railways and the rail workers who had remained on duty were allowed one advance increment. As the applicant had

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also rendered duty during strike period, he was entitled to this advance increment. The applicant's grievance is that despite repeated representations the respondents did not decide the case of restoration of his increments and the grant of advance increment till 1992 ~~when~~ vide order dated 11.5.1992 his pay was refixed with retrospective effect. The applicant submits that even then the respondents did not allow him the benefit of advance increment, deducted an amount of Rs.11,200/- from his arrears to which he was entitled and also did not pay interest on the delayed arrears.

2. The respondents in their reply have taken two preliminary objections. Firstly they state that since the grievance of the applicant pertains to the period prior to 1982, the Tribunal cannot intervene in the matter. Secondly, the respondents submit that the claim of the applicant is hit by limitation as the impugned order was passed in 1992 while the OA was filed four years later in 1996. On merits they say that the case of release of increment was delayed because of the request of the applicant to defer fixation of pay in the revised pay scales due to the Third Pay Commission from 1973 to 1975. On the question of advance increments, they say that the same could not be allowed as at the relevant time the applicant was undergoing punishment of temporary withholding of increments. They also state that the deduction of Rs.11,200 was made at the instance of the applicant on account of outstanding dues from him.

3. I have heard the counsel on both sides. On the question of limitation, the learned counsel for the applicant submits that the arrears on account of the 1992 order were paid only in 1995 and it is only then that the applicant could know the amount being paid by the respondents and the deductions made by them. This explanation does not stand to reason. The order of

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refixation of pay, Annexure A2 clearly gives the chart of the revised pay and there is no doubt that the respondents as per this order had allowed the restoration of three increments. The applicant, if he was dissatisfied should have therefore taken up his case at the appropriate time as regards the restoration of the three increments and his claim for interest thereon. The same applies in respect of the advance increment claimed on account of service during the strike period.

4. The case of the applicant in regard to the recovery of Rs.11,200/- from the arrears paid to him is entirely on a different footing. In the counter the respondents have stated that the applicant had himself offered that the outstanding against him be deducted from arrears. They also mentioned that a copy of this letter is annexed with the reply. However, as pointed out by the applicant in his rejoinder no such copy was enclosed. However the learned counsel for the respondents has produced a copy of a letter dated 2.2.1993 written by the applicant to the Senior DPO, Northern Railway, Bikaner. The same has been taken on record. The letter is actually a complaint that the arrears bill of the applicant was not being prepared even though to save time he had himself prepared an arrear statement. He went to say:-

"Neither they are preparing the bill themselves nor accepting the bill prepared by myself and duly forwarded by a responsible person after checking the records. A copy of the same I am attaching with this application. If the clerks found excess amount in this bill so excess amount can be deducted from my pay but they should not refuse to pass it."

Learned counsel for the respondents submits that this was clearly a voluntary offer that the recoveries may be deducted. I am however unable to agree with this interpretation. The context makes it clear that the applicant wanted his arrears bill expedited and to that end was making a statement that in case the bill prepared by him was found excessive then the excess amount

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could be deducted and the rest passed. There was no reference in this letter to recoveries on account of over payments made in the past.

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5. The learned counsel for the respondents also drew my attention to the letter of the applicant dated 1.8.1975, Annexure A5 whereby he had offered the recovery of hard duty allowance for Rs.238/- in lieu of the advance increments for loyal service. This letter cannot be read as an offer to deduct a sum of Rs.,11,200/- from the arrears due to the applicant. No details whatsoever have been given regarding the outstanding dues from the applicant nor has he been given any opportunity to show-cause before such recoveries were directed to be made. In this respect there is also no bar or limitation as admittedly the arrears were paid to the applicant in 1995. Clearly the applicant is entitled to the payment of Rs.11,200/- which has been deducted from his arrears.

6. In the light of the above discussion, this OA is partially allowed with a direction to the respondents to release the sum of Rs.11,200/- to the applicant within a period of three months from the date of receipt of a copy of this order. No costs.


(R.K. AHUJA)
MEMBER(A)

/rao/