

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1734 of 1996

NEW DELHI THIS THE 10 DAY OF DECEMBER, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Vimal Kumar  
S/o Shri Om Parkash,  
R/o Quarter No.E-60, Railway Colony,  
Sirsa,  
Haryana.

...Applicant

By Advocate Shri Yogesh Sharma.

Versus

1. Union of India through  
The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
  2. The General Manager (P),  
Northern Railway,  
Baroda House,  
New Delhi.
  3. The Divisional Railway Manager,  
Northern Railway,  
Bikaner (Rajasthan)
- ...Respondents.

None for the respondents.

ORDER

Hon'ble Mr.K. Muthukumar, Member (A)

Applicant is aggrieved that the respondents have declined the grant of advance increments on his acquiring higher qualification as admissible in terms of Railway Board Circulars of PS No.3552 and 9905. Applicant passed the A.M.I.E. Exam. in June, 1995 and claimed the advance increments in July, 1995 which was duly recommended for sanction by the Divisional Railway Manager in October, 1995. The grievance of the applicant is that respondents did not grant the incentive increments and by their order dated 7.4.1997 (Annexure R-1) informed the DRM that the applicant

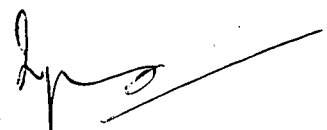
would be eligible only for only lump-sum payment of Rs.6,000/- as the Railway Administration had introduced the lump-sum payment scheme in lieu of the advance increments scheme by Railway Board Circular-Instructions dated 2.1.1996 and accordingly sanctioned the lump-sum amount to the applicant.

2. Applicant's case is that the the revised scheme had come into effect only from January, 1996 and could have not retrospective application in respect of those who had qualified well before that date. He relies on the judgment in Union of India and Others Vs. Tushar Rajan Mohanty & Others, 1995(1) AISLJ SC page 112, to contest that any amended law cannot take away the vested right.

3. From the averments made by the respondents, it is clear that they have merely applied the revised Railway Board lump-sum payment Scheme as one time incentive, in the case of the applicant. Applicant had qualified in the examination almost about 7 months before the introduction of the revised Scheme. His case for grant of advance increment under the old Scheme was recommended by the DRM as early as in October, 1995 itself. The right to advance increment had accrued to the applicant immediately after he had qualified in the examination and had become eligible and the case could not be sanctioned earlier, possibly due to routine administrative delays, for which the applicant could not be held responsible. Further any revision of the existing Scheme can have only prospective application and cannot cover those who have become eligible

much before the date of introduction of the revised Scheme. In the circumstances, in the present case, the revised Scheme has come into effect from the date of issue of the circular, i.e., 2.1.1996 but it is stated that those employees who have not availed the incentives of advance increments under the earlier Scheme, will be entitled to lump-sum incentives even if they have acquired the qualification prior to issue of these instructions. This has the effect of taking away the vested right of those who have acquired the necessary qualifying exam. for availing the advance increment under the earlier Scheme. The respondent could introduce or modify the Scheme and make the Scheme applicable to all those who acquire the qualification on or after the revised Scheme. Instead, the instructions cannot violate the vested right of those who have acquired the qualification prior to the date of revised scheme. In view of this, the decision of the respondents in the case of the applicant cannot be sustained.

4. In the result, the application is allowed and the respondents are directed to regulate the case of the applicant in accordance with the Scheme that was in force at the time when he acquired higher qualification. No costs.

  
(K. MUTHUKUMAR)  
MEMBER (A)

Rakesh