

Central Administrative Tribunal, Principal Bench

O.A.No.1834/96

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

New Delhi, this 31st day of March, 1997

Shri P.C.Gupta,
A.S.M.(Retd.)
C-3/8792, Vasant Kunj
New Delhi.

Applicant

(By Shri H.K.Gangwani, Advocate)

Vs.

Union of India through:

1. The General Manager,
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi.

Respondents

(By Ms. Sunita B. Rao, Advocate)

O R D E R

The applicant while working as Assistant Station Master at Guldher Railway Station of Delhi Division was deemed to have resigned from service w.e.f. 20.10.1971 under Rule 732 RI by the respondents on the ground that he was unauthorisedely absent from duty. After series of litigation the applicant obtained the relief in TA No.8/92 by which judgement the termination order dated 20.10.1971 was quashed and the applicant was deemed to be continued in service. The applicant was reinstated in service from 1.6.1995 as a Traffic Inspector, Meerut vide order dated 12.5.1991, Annexure A1. The grievance of the applicant is that neither his pay has been fixed nor he has been given promotion in accordance with the extant rules and judgments of this Tribunal. He also submits that the arrears of pay due to him for the period 20.10.1971 to 31.12.1985 are still to be paid. He therefore, seeks a direction that his pay should be fixed after granting him promotion at par with his junior, one Shri

Lvs
Dr
B

dr

-2-

Sukh Basi Lal, SS(MSZ) his retiral benefits be recalculated on that basis and he should be given arrears of difference of pay along with 18% interest. (8)

2. The respondents in their reply state that after necessary medical examination, he was taken back in service from 1.6.1995 and initially fixed in the grade of Rs.1200-2040 and subsequently was promoted in the grade of Rs.1400-2300. However, he could not be considered for further promotion after the grade of Rs.1400-2300 as he had not qualified the pre-requisite promotion ^{pre-requisite} Para 16 course. This is a safety course which is an essential ^h for promotion for Station Master. As regards the non payment of arrears from 20.10.1971 to 31.12.1985 the respondents submit that the same could not be arranged due to non-availability of relevant papers, but payment is now being arranged by ^{waiting} internal checks.

3. I have heard the learned counsel on both sides. The learned counsel for the applicant submits that the non-passing of the P-16 course cannot be attributed to any failure on the part of the applicant since he was never deputed for this course. On the other hand, learned counsel for the respondents states that he had been deputed for this course but before he could be so deputed, he attained the age of superannuation and hence he could not be considered for promotion.

4. I have considered the matter carefully. The applicant had been kept out of the service from 1971 onwards illegally and by the orders of this Tribunal in TA No.8/92 it was held that the applicant should be deemed to be in continuous service as the termination orders were quashed.

Dr

The respondents took time even after the passing of the orders in TA No.8/92 and delayed his reinstatement up to 1.6.1995. Thus the applicant cannot be at fault for not passing the qualifying test. The explanation of the respondents that he could not be sent for this course because the date of superannuation intervened does not support their case. Had the applicant not been wrongly kept out of service from 1971, he would have had an opportunity to pass P-16 course or any other course. The respondents say that passing of the P-16 course is essential pre-requisite for promotion, since this is a safety course for Station Master. However, the applicant has already retired in 1996 and there was thus no question of his working as Station Master thereafter. He is therefore, ~~not~~ entitled for consideration of his promotion with reference to the promotion of his junior for purposes of fixation of pay and retiral benefits.

9

5. The explanation of the respondents that the back wages from 1.10.1971 to 31.12.1985 could not be paid to him because of some technical reasons is also not satisfactory. It was the responsibility of the respondents to ensure speedy decision of the case and to pay him the ^{arrear} ~~decision~~ in accordance with the directions of the Court. In this matter also the liability of the respondents for the delay is apparent.

6. In the facts and circumstances of the case and in the light of the above discussion, I allow this OA with the following directions:

Dr

-4-

a) The respondents would consider the case of the applicant for promotion to all higher grades with reference to the junior, one Shri Sukh Basi Lal, without considering any requirement of passing any qualifying examinations. This will be done within a period of three months from today.

b) Thereafter the applicant's pay will be refixed with reference to his promotions, if any, and the arrears will be calculated and payments made to him of pay as well as retiral benefits within a period of three months thereafter.

20.10.1971 to 31.12.1985

c) The arrears for the period 1.1.1971 to 31.12.1985 shall be paid to him within three months time along with 18% interest from 1.6.1995 i.e. the date of reinstatement to the date of actual date of payment.

The OA is disposed of with the above directions. No costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER(A)

/rao/

Corrected
vid Court's
order dated
14.10.97 in
MA 1891/97

15/10