

(11)

Central Administrative Tribunal, Principal Bench

Original Application No.2261 of 1996

New Delhi, this the 4th day of April, 2000

Hon'ble Mr.Justice Ashok Agarwal Chairman

Hon'ble Mr.V.K.Majotra, Member (Admnv)

Shri P.C.Gupta, S/o late Shri R.N.Gupta,  
Chief Telecommunication Inspector, Central  
Railway, Mathura Jn. Mathura. - Applicant

(By Advocate -None)

Versus

Union of India : Through

1. The General Manager, Central Railway,  
Bombay V.T.

2. The Divisional Railway Manager, Central  
Railway, Jhansi. - Respondents

(By Advocate -None)

O R D E R (Oral)

By V.K.Majotra, Member(Admnv) -

The applicant has sought a direction to the respondents to step up his pay at the level of the pay of <sup>his junior by</sup> Shri B.R.Lodh and Shri R.K.Sharma with all consequential benefits.

2. The applicant was appointed in the Central Railway as Telecommunication Inspector (for short 'TCI') Gr.III scale Rs.425-700/ Rs.1400-2300 in the year 1974. He was promoted in TCI Gr.II in the year 1983 and in Grade-I scale Rs.2000-3200 in 1987. Later on, he was promoted as Chief Telecommunication Inspector in grade Rs.2375-3500 from 1.3.1993. The applicant was promoted as TCI Gr.I scale Rs. 700-900 from 3.5.1987 along with his colleagues S/Shri B.R.Lodh and R.K.Sharma. In the integrated seniority list prepared for selection to Group 'B' post as on 1.3.1989 (Annexure-A-I) whereas the applicant's name is at serial no.272, the names of Shri B.R.Lodh and Shri R.K.Sharma are at serial nos. 274 and 275. According to the applicant he came to learn in

1987 that the pay of Shri B.R.Lodh and Shri R.K.Sharma, his juniors, had been fixed at a higher stage than that of the applicant in the grade of Rs.2000-3200 on account of the fact that the respondents had given adhoc promotions to Shri Lodh and Shri Sharma in TCI Gr.-I in the year 1985 followed by regularisation in the year 1987. The applicant made representations which according to him had remained unrepplied. The applicant has drawn our attention to a decision of Jabalpur Bench of the Tribunal in the case of S.R.Srivastava Vs. Union of India and others, decided on 23.12.1994, wherein senior's pay was directed to be stepped up on par with that of the juniors who were drawing more pay on account of adhoc promotion.

3. The respondents have taken two preliminary objections in their counter, namely, that the applicant has not pointed out any enforceable legal right on the basis of any law or otherwise for the grant of the reliefs claimed and secondly that the OA is barred by limitation as Shri R.K.Sharma and Shri B.R.Lodh had been granted the higher level of pay as far back as in 1987. The respondents have also stated that even otherwise the applicant's representation had been rejected vide respondents' letter dated 27.4.1994. Taking this also into account the OA is barred by limitation.

4. In his rejoinder, the applicant has in reply to the plea of limitation stated that the contention of the respondents in regard to the point of limitation is incorrect. The applicant has failed to give any strong reasons against the plea of limitation of the respondents. Even if it is accepted that the applicant

did not learn about the raise in the pay of Shri B.R.Lodh and Shri R.K.Sharma for a long time, the applicant had no ground to delay filing of the OA after the rejection of his representation on 27.4.1994. In this view of the matter the OA is certainly barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. Even otherwise, the law is very clear on the subject. Stepping up of pay can be granted only where there is a provision in law in that behalf, and only in accordance with that; and a claim of stepping up can be made only on the basis of a legal right and not on pervasive notions of equity or equality, unrelated to the context of statutory law.

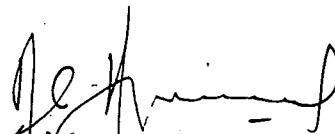
5. The applicant has tried to derive benefit from the order in the case of S.R.Srivastava (Supra) but much development has taken place in the administrative law on the point since then. The said order has been superseded by horde of judgments. The ratio of Full Bench of the Tribunal in the case of B.L.Somayajulu & ors Vs. The Telecom Commission & another, OA 1412/93 decided on 20.11.1996 is very clear in the matter. In a similar case in Union of India Vs. Sushil Kumar Paul, (1998) 5 SCC 268: 1998 SCC (L&S)1336 : AIR 1998 SC 1925 where stepping up of pay was claimed with reference to the pay of a junior, whose pay had risen since he had the benefit of adhoc officiation on lower post as well as promotion post before regular promotion, the Tribunal's directions for stepping up the senior's pay overlooking the Govt. of India, Department of Personnel & Training's OM dated 4.11.1993 on the subject were held to be not sustainable by the Hon'ble Supreme Court. Their Lordships in that case applied their earlier

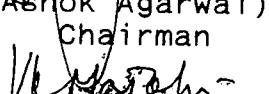
decision in Union of India Vs. O.P.Saxena; (1997) 6

SCC 360 : 1997 SCC (L&S) 1667.

6. It is not uncommon that in a vast organisation like the Railways in order to meet administrative exigencies local arrangements have to be made by according adhoc promotions to certain officials, which may be followed by regular promotion. The senior officials posted in other areas cannot be allowed the benefit of stepping up of pay to the level of the pay of the junior officials who received the said advantage on account of adhoc promotion as there are no provisions of law/rules entitling them to the same advantage.

7. In the light of the above discussion and reasons, we do not find any merit in the OA which is dismissed without any order as to costs.

  
(Ashok Agarwal)  
Chairman

  
(V.K. Majotra)  
Member (Admnv)

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