

Central Administrative Tribunal
Principal Bench: New Delhi

(17)

OA No. 942...of...1996..decided on ..25..11.1997

Name of Applicant: S.K.Prasad

By advocate: Shri B.S.Maines

Versus

Name of Respondents: UOI Through Secy Ministry of Railways & ors

By advocate :: Shri Rajeev Sharma

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Hon'ble Mr. N. Sahu, Member (A)

1. To be referred to the Reporter or not?
2. Whether to be circulated to other Benches of the Tribunal?

Ans

(N. Sahu)
Member (A)

(18)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 942 of 1996

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

Hon'ble Mr. N. Sahu, Member (Admnv)

Shri S.K.Prasad, Ex.Trainee,
Dy.Shop Superintendent (Elec.),
Under Chittaranjan Locomotive Works,
Chittaranjan. Presently: Assistant
Director Incharge, Field Testing
Station, Government of India,
Ministry of Industry, Shed No.8,
CoOp. Industrial Estate,
Saharanpur Road, Patel Nagar,
Dehradun - 248 001 (U.P.)

- APPLICANT

(By Advocate - Shri B.S.Mainee)

Versus

Union of India through :

1. The Secretary, Ministry of Railways,
(Railway Board), Government of India,
Rail Bhavan, New Delhi.
2. The General Manager, Chittaranjan
Locomotive Works, Chittaranjan,
(Distt.Burdwan) -713 331.
3. The Deputy Chief Personnel Officer(W),
Chittaranjan Locomotive Works,
Chittaranjan(Distt.Burdwan). 713331 - RESPONDENTS

(By Advocate - Shri Rajeev Sharma)

JUDGMENT

By Mr. N. Sahu, Member (Admnv) -

The admitted facts are that the applicant was appointed as an Electrical Chargeman Grade "B" with effect from 2.9.1974 after he completed apprenticeship and was subsequently appointed to officiate as Electrical Chargeman-A with effect from 1.1.1984. Both these posts are Group "C" posts. While working as Electrical Chargeman "A", the applicant was granted two advance increments for passing Section -B examination of Electrical Engineering conducted by

Institution of Engineers (India) (AMIE Sec. "B") on 27.3.1987 in terms of instructions then existing by the letters of the Railway Board dated 14.5.1966 and 10.3.1972. This scheme was extended from time to time upto 30.6.1988. In terms of Railway Board's letter dated 29.5.1989 the Railway Board continued the scheme issued by letters dated 14.5.1966 and 10.3.1972 except that para (d) of the department's letter dated 14.5.1966 substituted two advance increments with the following :

"(i)For passing Part-I or "A" or Intermediate or Pre-final Examination - two advance increments.

(ii)For passing Part-II or "B" or Final Examination - Four Advance Increments."

By a letter dated 4.9.1990 the Railway Board clarified that the scheme issued on 29.5.1989 would be prospective in its application and the cases occurring between 30.6.1988 and 29.5.1989 would be governed by the earlier 1966 incentive scheme. When this letter dated 4.9.1990 was challenged before the Madras Bench of the Tribunal in the case of P.M.Babu Vs. Union of India and others, O.A. No.1013 of 1990 decided on 28.1.1992, the Madras Bench quashed the letter dated 4.9.1990 and held that the Railway Board's letter dated 29.5.1989 came into force with retrospective effect from the last day of the extension of earlier scheme, namely, 30.6.1988. The Tribunal laid emphasis on the word "continue" in the 1989 scheme.

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2. The respondents' contention is that the applicant cleared the higher qualification on 27.3.1987. This date is not only prior to 29.5.1989, the date of the circular issued by the Railway Board but also prior to 1.7.1988 which is a date from which the Madras Bench gave benefit in P.M.Babu's case (supra). Thus, the instructions of the Railway Board dated 29.5.1989 came into force from the date of issue on the ground that it was a fresh scheme. The Madras Bench clearly held, according to the respondents that employees who acquired qualifications on or after 1.7.1988 were only entitled to the new rate of incentive granted by the Railway Board's letter dated 29.5.1989. As the applicant cleared the higher qualification on 27.3.1987 when the old rate of incentive was in force, the new rates cannot be allowed to him.

3. The learned counsel for the applicant, however, vehemently argued that once the clarification given by the Railways has been quashed the respondents cannot rely upon the said clarification. The applicant states that 1966 scheme continued after the Madras Bench Judgment from 30.6.1988 onwards without any gap. The applicant's counsel had taken me through the instructions issued by the other Ministries under similar circumstances giving the benefit to those who had passed the final examination earlier to the cut off date. These letters were issued by the Ministry of Communication and the Comptroller and Auditor General of India (in short "CAG") The CAG was referring to cases of incentives for acquiring higher

qualifications in ICWA examination with effect from 7.9.1987 and stated that additional incentives to those who had qualified in ICWA examination prior to 7.9.1987 were also eligible to be granted four more advance increments with effect from 7.9.1987. There are other instances pointed out wherein employees who acquired the relevant qualification prior to the cut off date also have been given the benefit of enhanced rate of advance increments e.g. prior to 4.5.1990 no advance increment was allowed to Group 'B' railway employees who acquired the technical qualifications but with effect from 4.5.1990 the benefit of six advance increments has been extended to those Group 'B' employees also who acquired the relevant qualification even prior to 4.5.1990. Similar is the case of scheme of incentive for IA&AD officials to whom the benefit of enhanced rate of incentive has been extended with effect from 7.9.1987 even though those officials acquired the relevant qualification prior to the cut off date, namely, 7.9.1987. My attention was drawn also to a similar scheme for Accounts Personnel working under the Telecommunication Department, Govt. of India for qualifying in ICWA examination. The applicant, therefore, states that simply because he acquired the qualification prior to 1.7.1988 he should not be deprived of the four advance increments with effect from that date. Thus, whenever rates of increments were enhanced for acquiring certain qualifications from a particular cut off date the benefit of enhanced rates from the same cut off date has also been extended to those who had acquired the

said qualification earlier and who also had already enjoyed the benefit of incentives according to the old scheme.

4. The claim of the applicant is that he should be allowed the balance 4 advance increments with effect from 1.7.1988 in the scale and stage at which he was drawing pay on that date. The applicant passed the Section 'A' examination in November, 1971 and he was granted an award of Rs.200/- in 1972. He passed Section 'B' examination in Electrical Engineering Branch held in December, 1986 and he was granted two advance increments with effect from 27.3.1987. These increments are based on the scheme dated 14.5.1966. Pursuant to the recommendations of the Fourth Pay Commission the Ministry of Railways vide letter dated 29.5.1989 reviewed the existing scheme as on 14.5.1966 as modified by their letter dated 10.3.1973 and held that this scheme "should continue to be in force". They enhanced the advance increments from two to six. The applicant states that he should be given the balance of four increments. It is very clear that the order dated 29.5.1989 is not a new scheme. It is the same old scheme that continues with modifications. The Madras Bench held that the Board's letter dated 29.5.1989 came into force with retrospective effect from 1.7.1988 and therefore the applicant claims these four increments from that date. The justification for the applicant is provided by the Railway administration itself in the case of incentives to Group 'B' officers for acquiring higher qualifications. There also a question had arisen

whether the incentive scheme would be applicable to the staff acquiring qualification prior to 4.5.1990 which is the cut off date; and whether the staff who passed the ICWA final/Intermediate examination while working as Group "C" and were granted two advance increments/ cash award of Rs.200/- as per instructions prevailing at that time are also to be granted the additional increments on promotion as Group "B" officers. By a letter dated 12.10.1990 the Board had clarified that such incentive shall be admissible to such of those Group "B" officers who have qualified the recognised examination prior to the issue of the instructions dated 4.5.1990 from the date of the issue of the said letter. Similarly in the case of Group "C" officials who drew two advance increments/ cash award of Rs.200/- at that time were directed to be given the balance of increments even though they may be working as Group "B" officers on 4.5.1990. These instructions clearly apply to the applicant's case as well. A number of instances have been cited with regard to the similar benefits extended in other Ministries in exactly similar situation. Even the Railway Board itself in another instance of Masters and Drivers in the Marine Department had granted this benefit of enhanced incentives for persons who acquired qualification prior to the cut off date. Para 644 of Indian Railway Establishment Manual, Volume-I is extracted hereunder -

"Advance increments of incentive to serangs/ Masters and Drivers in the Marine Department for acquiring higher competency certificate - Serangs/ Masters and Drivers on their acquiring

certificate of competency for working vessels of higher Horse Powers in the scale in which they are working at the time of acquiring the higher competency certificates will be granted three advance increments, provided that the grant of the advance increments does not exceed the maximum of the pay of the post.

Note-1: The above benefit will be applicable for the competency acquired on or after 8.5.1964. In the case of those who have already acquired the higher competency certificates before this date, but were in holding charge of vessels of requisite Horse Power, they should also be granted three advance increments subject to the ceiling mentioned in above para with effect from 8.5.1964.

2--The grant of advance increments will not effect the normal date of increment of the beneficiary."

5. In view of the above discussion, the additional incentive of four increments should have been allowed from the date of 29.5.1989 but as the Madras Bench ruled, which is binding on me and which I accept with respects, that this scheme should be applied retrospectively from 1.7.1988, the applicant's claim of 4 more increments has to be allowed with effect from 1.7.1988. I accordingly direct the respondents to compute and pay to the applicant all the arrears on the above basis within four months from the date of receipt of a copy of this order, provided he fulfills other conditions mentioned in the scheme dated 14.5.1966 and 10.3.1972.



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6. The claim for interest for the arrears is hereby rejected because there is no administrative lapse or delay on the part of the respondents.

7. In the result the O.A. is allowed to the extent stated above. No order as to costs.

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(N. Sahu)

Member (Admnv)