

Central Administrative Tribunal, Principal Bench

R.A.No.87/97
M.A.No.715/97 in
O.A.No.1357/96

(5)

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

New Delhi, this 6th day of June, 1997

Shri Gayalal
s/o Shri Sriram
Fitter, Northern Railway
Delhi Division
O/o the Inspector of Works
Kashmere Gate
New Delhi.
r/o H.No.90/D-4
Railway Colony
Tughlakabad
New-Delhi. Applicant

(By Shri A.K.Bhardwaj, Advocate)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Deputy Chief Engineer (Construction)
Northern Railway
State Entry Road
New Delhi.
3. The Dy. Chief Engineer/C-1
Northern Railway
State Entry Road
New Delhi.
4. Sr. Civil Engineer (Construction)-I
Northern Railway
State Entry Road
New Delhi. Respondents

(By Shri B.S.Jain, Advocate)

O R D E R(Oral)

The review petitioners (originally respondents) in this case submit that there is a patent error apparent in the impugned order inasmuch as the order of reviewing authority has been mis-read to imply that the order of the disciplinary authority had been set-aside while in fact the order of the reviewing authority clearly

02

- 2 -

indicated that it was being modified to the extent that the pay of the applicant was being restored w.e.f.

16.1.1996.

(b)

2. The brief facts of the case are that the applicant was working as a Fitter in the grade of Rs.950-1500 when he was reduced to the post of Khalasi in the grade of Rs.750-940 vide order dated 10.5.1995. The reviewing authority vide its order dated 1.2.1996, restored the applicant to the grade of Rs.950-1500. In the impugned order it was stated that the applicant is to be restored to the same position as on the date of imposition of the punishment.

3. The reviewing petitioners(respondents) submit that the order of reviewing authority clearly stated that the applicant may be restored to the grade of Rs.950-1500 w.e.f. 16.1.1996(emphasis supplied). To that extent, according to the review petitioner there is a patent error on the face of the record.

4. I have heard the learned counsel for the review petitioners. He submits that on a literal reading of the order, no other interpretation is possible, but that the order of the disciplinary authority was being modified; it could only mean that according to the reviewing authority the punishment already undergone by the applicant was sufficient and that he was being restored to the original pay w.e.f. 16.1.1996. Since on the date of punishment, i.e., 10.5.1995 he was drawing pay of Rs.1090 he could only be deemed to be restored to the same pay. The learned counsel for the applicant also points out that in the impugned order, neither the order

of the disciplinary authority nor of the appellate authority had been set-aside and in this light of the matter, the order of the reviewing authority had to be implemented.

17

5. I have carefully considered the matter. The interpretation taken in the impugned order was that the order of the reviewing authority could mean only that the pay was restored from the date the original punishment was imposed. The reviewing authority do not state as to what was the modified punishment. The learned counsel for the petitioners would say that the modified punishment is that whatever punishment has already been undergone by the applicant is sufficient and he is restored to same pay scale w.e.f. 16.1.1996. I am unable to agree with this. If the punishment is modified then it should have been clearly stated that the applicant was being reduced to a lower pay scale for the specified period. Neither the reduction in pay nor the specified period has been ~~specified~~ ^{stated}. In view of this, the order of restoration in my view can only mean restoration from the date of punishment.

6. In the light of the above discussion, I do not find that the petitioners plea that there is an error apparent on the face of the record is correct. Accordingly, I dismiss the RA.

7. MA No.715/97 also stands dismissed accordingly.

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

/rao/