

Central Administrative Tribunal
Principal Bench

O.A. No. 2077 of 1997

New Delhi, dated this the 1st AUGUST, 2001

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HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri B.D. Bhatia,
CP.W.I (Retd.),
Northern Railway,
Baroda House,
New Delhi.
R/o 6/30, East Patel Nagar,
New Delhi.

... Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through
the General Manager,
Northern Railway,
Baroda House, New Delhi. ... Respondent

(By Advocate: Shri R.P. Aggarwal)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondent's order dated 31.1.96 (Annexure A-1) and seeks a direction to respondents to pay him the arrears of pay in the scales in which he was given promotion with retrospective effect with interest @ 15% p.a.

2. Applicant and others had filed O.A. No. 359/88 as they were aggrieved by the denial of seniority from the date of their appointment as Assistant Inspector of Works (AIOW) from various dates during the period 1962-64, upon their switching over to the category of Assistant Permanent Way Inspector (APWI) which was in the same pay scale.

3. That O.A. was allowed by order dated

6.7.93 and respondents were directed to regularise applicants and confirm them as APWs, duly taking into consideration the service rendered by them as AIOWs. Respondents were also directed to consider on merits, applicant's case for further promotion to the next higher grade w.e.f. the dates their immediate juniors were promoted to such higher posts.

(2A)

4. Accordingly, respondents have issued impugned order dated 31.1.96 regulating the arrears of difference of pay for the relevant period in respect of each of the applicants in O.A. No. 359/88. Respondents in their reply to para 4.18 of the O.A. have stated that applicant and others were given arrears as per Tribunal's order dated 6.7.93 on the basis of shouldering higher responsibilities; otherwise they were given proforma promotions. It is further stated that the said compliance of the Tribunal's order dated 6.7.93 was submitted to the Tribunal at the time of hearing of a contempt petition alleging contumacious non-compliance of those orders which was dismissed after the Bench had satisfied itself of the compliance report submitted by respondents.

5. Applicant has not specifically denied in the corresponding para of his rejoinder the aforesaid specific averments of respondents in their reply to para 4.18 of the O.A. that the Tribunal had dismissed the C.P. against order dated 6.7.93 after satisfying

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itself that the aforesaid order had been complied with. Applicant has also not pleaded that at the time of dismissing the C.P. liberty was given to him to agitate this particular grievance separately in accordance with law, if so advised.

6. Applicant's counsel has relied upon the Tribunal's order dated 18.2.2000 in O.A. No. 910/94 Shri Rajbir Singh Vs. Union of India & Others and certain other rulings, but in the present case, in the light of the position explained in Para 5 above, the claims in this O.A. are squarely hit by the principles of Res Judicata.

7. The OA is, therefore, dismissed. No costs.

A Vedavalli
(Dr. A. Vedavalli)
Member (J)

karthik

S.R. Adige
(S.R. Adige)
Vice-Chairman (A)