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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.1118/94

New Delhi this the 8th Day of July, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)

Sh. C.J. Roy, Member (J)

Hans Raj s/o Sh. Mehnga Ram,
r/o 1-92, Laxmi Nagar,
Delhi.

...Applicant

(By Advocate Sh. M.L. Sharma)

Versus

Union of India through:

1. General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Personnel Officer, Northern Railway Headquarters Office, Baroda House, New Delhi.

...Respondents

ORDER

Hon'ble Mr. N.V. Krishnan, Vice-Chairman :-

This application is made in respect of the grievance mentioned in para-1 of the O.A. which reads as follows:-

"The applicant is aggrieved due to non-grant of promotion from the due date i.e. the date of his junior in the grades Rs.550-750 and 700-900 (RS)/2000-3200 (RPS) and non-fixation of pay thereafter and also not fixing his pay in grade Rs.2375-3500 (RPS) correctly which has caused undue loss to the applicant in respect of the pay and allowances. Consequently applicant has been paid his retiral benefits at a lesser rate of pay.

Further, the applicant is also aggrieved due to reducing his pay from Rs.2900/- p.m. in grade Rs.2000-3200 (RPS) to Rs.2675/- which he was drawing from 1.1.93 while fixing his pay in grade Rs.2375-3500 (RPS) on promotion w.e.f. 11.10.93."

2. The applicant has, therefore, prayed for the following reliefs:-

"i) To grant promotion to the applicant to grade Rs.550-750(RS)/1600-2660 (RPS)/and Rs.2000-3200 (RPS) respectively from the dates his junior Shri Ram Swaroop Verma was promoted.

ii) To fix the pay of the applicant in the above grades accordingly thereafter and to pay the difference of pay and allowances.

iii) To fix his pay revised in grade Rs.2375-3500 (RPS) from 11-10-1993 and to pay the difference of pay and allowances.

iv) To make the payment to the applicant of his retiral benefits on the basis of revised pay fixation in grade Rs.2000-3200 (RPS) and 2375-3500 (RPS) and to pay the difference to the applicant."

Besides, interest is also claimed.

3. The learned counsel for the applicant clarified that a junior of the applicant, Ram Swaroop Verma was promoted to the grade of Rs.550-750 on 06.12.73; to the grade of Rs.1600-2600 on 10.11.76 and to the grade of Rs.2000-3200 on 6.8.82.

4. As it appeared that, *prima facie*, a question of limitation is involved, the learned counsel was informed that in case he wanted to seek condonation of delay it was open to him to file a Miscellaneous Application for that purpose. However, if he felt that there was no delay, it was open to him to argue the point, in which case, he would not be given any opportunity to file MA in this regard thereafter.

5. The learned counsel for the applicant contended that there was no delay in filing the application and he chose to argue his case on that basis. Accordingly, the matter was heard in respect of limitation and orders have been reserved on admission. He relies on the decisions of the Hyderabad Bench (M.Y. Bhide v. Chief Engineer (Civil) Department of Posts - 1993 (1) (CAT) 49) and the Jabalpur Bench of the Tribunal (S.S. Damle vs. U.O.I. - 1992 (2) ATJ 315). In the former case it has been held that in the matter of salary, allowances and pension the cause of action recurs every month and, therefore, the applicant can take corrective action at any time when the grievance exists. In the latter case, the denial of promotion from due date is held to be a recurring case of action and it is not barred by limitation. These grounds have been taken in para-3 of the OA itself.

6. We have seen the judgements. These are clearly distinguishable.

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7. In Bhide's case the increments of the applicant from 1.10.86 were not released because he had not passed the required examination. That is an entirely different matter. In the present case the grievance of the applicant arises out of the fact that his junior has been promoted and, therefore, he ought to have taken the necessary steps when the cause of action arose w.r.t. the juniors promotion.

8. Similarly, in Damle's case (supra) the facts are different. The applicant therein, was not promoted due to the pendency of a chargesheet issued on 31.7.84. The promotion was due on comletion of 16 years' of service under the time bound promotion scheme. The applicant had completed 16 years' of service before the issue of the chargesheet. In other words, in that case also the non-promotion was not related to what happened to others.

9. In the present case, the only ground for earlier promotion is that the junior, Ram Swaroop Verma, was promoted earlier. That being the case, the cause of action arose as and when thhe junior was promoted, which, as noted above, was on 6.12.73, 10.11.76 and 6.8.82 respectively. Not having agitated the matter in time, the reliefs sought in this regard at serial No. (i) and (ii) extracted in para 2 supra are hopelessly barred by limitation. Hence the application in respect of these prayers is liable to be dismissed.

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10. The applicant has been promoted to the grade of Rs.2375-3500 w.e.f. 30.9.93 (Annexure A-10). In his representation (Annexure A-13) he has stated that his pay in this grade should not be fixed less than that of Swaroop Singh who is his junior. The O.A. itself does not lay any foundation for this purpose. Instead, it is stated as follows in paragraphs 4.15 and 4.16:-

"4.15. That the applicant being senior-most and selected Surveyor in grade Rs.2000-3200 (RPS) w.e.f 11.10.93 vide letter No.42-E/87/XVI EiiBi dated 30-9-1993 copy annexed and marked as Annexure A-9 but his pay in the said grade has not been fixed correctly after taking into consideration of the date of promotion of his juniors to grade Rs.550-750(RS) and also to grade Rs.2000-3200 (RPS) thereby an undue loss of pay and allowances has been caused to the applicant from 6-12-1973 to 0-11-1976 and from 6-8-1982 to 26-1-1984 respectively.

4.16. That applicant's pay Rs.2900/- in grade Rs.2000-3200 (RPS) which he was drawing w.e.f. 1-1-1973 was reduced illegally and arbitrarily to Rs.2675/- and his pay on promotion to grade Rs.2375-3500 (RPS) has incorrectly been fixed on that basis."

11. The prayers at serial Nos. (iii) and (iv) extracted in para 2 appear to be made in this connection.

12. We notice that an appropriate foundation has not been laid for these prayers. This, perhaps, is due to linking these prayers with stale claims which are barred by limitation. The prayers at (iii) and (iv) of para 2 do not arise out of the grievances at

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serial Nos. (i) and (ii). In other words, plural remedies are sought. Hence, they cannot be considered herein.

13. Hence, the OA is dismissed at the admission stage. This shall not preclude the applicant from filing a separate application, duly documented, in regard to the grievances at serial Nos. (iii) and (iv) of para 2 supra.

10/8/94
(C.J. Roy)

'Sanju'

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8/4/94

(N.V. Krishnan)
Vice-Chairman(A)