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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL NEBCH

OA 828/1994, New Delhi, 1st Feb, 1995

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Durga Prasad  
s/o Shri Asam Ram  
Shola Chatt Bhandar, Ghaziabad .. Applicant  
(By Shri G.S.Baqrar, Advocate)

Versus

Union of India, through

1. General Manager,  
Northern Railway, Baroda House  
New Delhi

2. The Divl. Personnel Officer  
Paharganj, Northern Rly  
New Delhi

3. Shri Balbir Singh  
s/o Shri Daulat Singh  
Northern Railway, New Delhi Stn. .. Respondents

(By Shri R.L. Dhawan, Advocate)

O R D E R (Oral)

None appeared on behalf of the applicant. The case is being disposed of on second call based on the arguments advanced by the learned counsel for the respondents and the documents already available.

2. The applicant retired as a highly skilled Grade II Fitter on 31.1.94 from Delhi Division of Northern Railway. Prior to joining Northern Railway the applicant had worked in Ss Light Railway and was absorbed in Northern Railway in the year 1971. The applicant was promoted to the post of Fitter Grade Rs.950-1500 with effect from 1.3.93 by order dated 28.12.93 (Annexure A-1). This OA has been filed with the following prayers:

(a) A writ of mandamus or any other suitable writ or direction may be issued to respondents to rectify their error in impugned order dated 28.12.93 in respect of fixation of pay and pension equivalent to the pay drawn by R-2 on 31.1.94, rate of pension be increased accordingly with further direction to allow benefits of Rule 228 of I&EM with consequential benefits.

(b) To direct the respondents to grant two complimentary passes after retirement counting previous service rendered in Ss Light Railways allowed to others.

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3. The learned counsel for the respondents explains that the relief No.1 prayed for by the applicant is to the effect that his pay be fixed based on the pay of the junior Respondent No.3 as on 31.1.84. In other words the prayer is that the pay of the applicant should be revised in relation to the pay drawn by Respondent No.3 as on 31.1.84 and further pension benefit reckoned on this revised pay. Attention was drawn to para 3 of the reply wherein it is stated that the Respondent No.3 was drawing Rs.1200 in the scale of Rs.1200-1800 with effect from 1.3.93. This would mean, the respondent No.3 would have drawn only Rs.1200/- even as on 31.1.94. Though pay protection with reference to R-3 only has been claimed as on 31.1.94, the respondents on their own had examined the case and found that the applicant was eligible for pay of Rs.1320/- in the scale of Rs.1200-1800 with effect from 1.6.93. Thus, the applicant was allowed pay of Rs.1320/- as on 31.1.94. This pay fixation is even better than what was prayed for in relief No.1. After fixing the pay at Rs.1320/- the pension and other settlement dues like commutation, gratuity and leave encashment have been based on pay of Rs.1320/- (Reference para 4 of the reply). It was argued that the relief No.1 has been made in a way more liberal than what was even prayed for. Thus, I note there is no need for any direction on Relief No.1.

4. With regard to Relief No.2, the learned counsel for the respondents referred to letter of Railway Board dated 21.1.71 on the subject of appointment of staff belonging to SS Light Railway (Annexure R-3 to the counter). In para 2 and para 5(iv) of the letter, it has been mentioned that the staff appointed would be treated as fresh entrants having been recruited for the

of  
first time on the date of their appointment on the railway  
as temporary employees. It is explained that upon the  
winding up of the SS Light Railway, the Government  
decided to mitigate the hardship to the retrenched  
employees and as an act of concession they were taken as  
fresh entrants. The service rendered in SS Light Railway  
has not been taken into account for the purpose of  
admissibility of post-retirement complimentary passes  
etc.

5. In the application, the applicant had enclosed  
as Annexure A-8 certain official correspondence. On  
perusal, I note certain information was being collected  
at the behest of the Ministry of Railways for consi-  
dering the question of qualifying service for post-  
retirement complimentary passes. Apparently this  
information was being collected with regard to all  
similar staff who had been absorbed on the closure  
of the Light Railway system etc. mere collection of  
information does not mean that earlier service in SS  
Light Railway would count for the grant of post-retire-  
ment passes. The applicant has not produced any policy  
decision. On the other hand, it is the stand of the  
respondents that such earlier service in the SS Light  
Railway should not be taken as qualifying service for  
the purpose of grant of post retirement passes. In  
para 6 of the reply, it has also been mentioned that  
the two examples quoted by the applicant do not contain  
details as to wherefrom the said employees are getting  
post-retirement passes and the respondents are not in  
a position to give any comments in the absence of  
complete details.

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6. In the face of the Railway Board's letter dated 21.1.1991 spelling out the conditions at the time of appointment of Ss Light Railway staff and in the absence of any specific direction permitting counting of service for the purpose of post-retirement passes, relief No.2 has to be rejected.

7. The OA is disposed of on the above lines. No order as to costs.

P. T. Thiruvengadam

(P.T.Thiruvengadam)  
Member (A)  
1.2.1995

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