

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. NO.1980/94

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HON. SHRI R.K. AHOOJA, MEMBER 'A'

NEW DELHI, THIS THE 18th DAY OF DECEMBER, 1996.

Shri Man Singh Meena
Superintendent
under Assistant Controller of Stores
Western Railway
Tughlakabad
NEW DELHI.

...APPLICANT

'By advocate Shri B.S. Mainee'

VERSUS

Union of India, through

1. The General Manager
Western Railway
Church Gate
BOMBAY
2. The Deputy Controller of Stores
Western Railway
KOTA

...RESPONDENTS

'By advocate Ms. Pinki Anand'

ORDER

The facts of the case can be briefly stated.

The applicant while working as Head Clerk under General Manager, Western Railway, was sent on deputation to Railway Electrification Mathura in 1981. While on deputation, in 1983 he was promoted to officiate as Assistant Superintendent and later the same

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year he was promoted as Office Superintendent in the scale of Rs.700-900. He was repatriated back to his parent office on 25.4.1988, showing his salary in LPC as Rs.2450/- as Office Superintendent (A-5 & A-6). On repatriation to the parent cadre, Western Railway, he was posted again as Assistant Superintendent. He filed an OA 766/93 praying for a direction to the respondents to promote him as Office Superintendent from the date his juniors have been promoted in the parent cadre in 1986. The OA was allowed and he was given promotion in his parent cadre w.e.f. 5.12.1986. His pay was fixed at the minimum of the scale, i.e., Rs.2000/-, from that date, and on the basis of annual increments at Rs.2450/- w.e.f. 5.12.1993. The controversy is based on the applicant's claim that he was entitled to the benefit of the increments earned by him as Office Superintendent while on deputation according to which his pay should have been fixed at Rs.2450/- from December, 1987 and not from 1993.

2. The respondents controvert this claim. They stated that the applicant was promoted in the Rural Electrification when he went on deputation notionally on ad hoc basis and was returned back to the parent cadre in 1988. At that time, his substantive post in the parent cadre was that of Chief Clerk in the scale of Rs.1600-2660. He was given proforma promotion as per the orders of the Tribunal w.e.f. 5.12.1986, when his juniors were promoted, though he was actually promoted as Office Superintendent on 1.11.1993.

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Accordingly, his pay was correctly fixed starting with the minimum of Rs.2000/- on the date of his notional promotion. The respondents submit that the benefit claimed by the applicant, of his working as Office Superintendent in the deputation organisation is not admissible in terms of rules.

3. I have heard the ld. counsel on both sides and I find that the applicant's case has no merit. Shri Mainee, ld. counsel for the applicant, argued that in going to the Electrification organisation, the applicant had not gone on foreign service and the pay of Office Superintendent in that organisation was the same as that of Office Superintendent in the parent office. The applicant has discharged higher responsibilities and duties of Office Superintendent while on deputation in another department of the Railways, and he was thus entitled to the benefit of that service rendered while fixing his pay under rule 1313 of the Indian Railway Establishment Code which is analogous to FR 22. A reading of the said rule 1313 does not bear out the contention of the ld. counsel. Proviso of Rule 1313 reads that when an official is appointed substantively to a tenure post on a time scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated, then the initial pay shall not, except in cases of reversion to parent cadre governed by proviso '1' 'iii', be less than the pay which he drew on the last occasion. Proviso '1' 'iii' refers to

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a permanent post other than a tenure post or a temporary post on an identical time scale. This rule was amended vide Railway Board's letter dated 12.12.91 'pp.11 of the respondents's reply' which read that save in cases of appointment on deputation to an ex-cadre post or to a post on ad hoc basis, the railway servant shall have the option to have the pay fixed under this rule or to have the pay fixed initially at the stage of the time scale of the new scale. The ld. counsel for the applicant stated that the word ad hoc came into force only with the amendment of 1991 and was not operative on the date of notional promotion of the applicant in 1987 nor on the date of repatriation from the Rural Electrification in 1988. There was thus no bar in 1987 that the promotion in the deputation post should not have been in an ad hoc capacity. The applicant however comes under the bar that he was not working against a permanent post while on deputation. I agree with the respondents that the benefit of promotion in a temporary unit, that is, in RE unit cannot be given in the parent office. The statement of the respondents that the applicant was working against a temporary post has not been controverted in the rejoinder. All that is stated is that his case is covered by rule 2018. I have perused rule 2018 of the Indian Railway Establishment Code, Volume II, Sixth Edition 1987, and I find no support for the claim of the applicant.

4. In the light of the above discussion, I find no ground for interference. The OA is accordingly dismissed. No costs.

P. K. Ahuja
'P.K. AHUJA'
MEMBER 'A'

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