

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 770/89.

New Delhi, this the Seventh day of March, 1994.

SHRI J.P.SHARMA, MEMBER(J).
SHRI B.K.SINGH, MEMBER(A).

Shri Hari Krishan Sharma,
Aged about 53 years,
son of Shri R.D. Sharma,
IOW/Western Railway, IOW Northern Railway.
Presently employed as Suboversear Mistry (SOM) under
IOW Hapur, District -Ghaziabad.Applicant
By advocate : None.

Versus

1. Union of India, through
 - a) General Manager, Northern Railway,
Baroda House, New Delhi.
 - b) General Manager (Engineering),
Western Railway, Church Gate, Bombay.
2. Chief Engineer,
Survey and Construction, Western Railway,
Station Building (1st Floor),
Church Gate, Bombay (Br.20).
3. Divisional Railway Manager,
Northern Railways, Moradabad.Respondents

By advocate : None.

O R D E R (ORAL)

SHRI J.P.SHARMA :

This case has been on Board since last one ^{/more than} month. When the applicant filed this case, he was about 53 years of age. It is not evident that whether he is still in service or not. The relief sought by the applicant is against reversion from IOW to SOM as well as proper and correct fixation of pay for the period from 1968 upto date. He has also assailed withholding of increments for 3 years without any inquiry and that the suspension period from 12-4-85 to

May, 1989 be declared as spent on duty with difference of pay and wages beyond the subsisting allowance. He has also prayed for revision of combined seniority in the open line and the construction line since 1962.

2. The most of reliefs claimed by the applicant appear obviously not within limitation. The respondents have contested this application on the ground that the petition is belated as he has prayed for fixation of pay for the year 1967 and 1968 which cannot be permitted. The pay of the applicant was fixed on his transfer from Western Railway to Northern Railway at his posting at Dehradun as SOM vide order dated 27-5-1977.

3. In view of the above facts, it is clear that such a belated claim of re-fixation of pay from the date of inductment in service from 31-5-1967 cannot be re-opened.

4. There is another Original Application 1526 of 1989 filed by the applicant where the applicant has accepted the pay fixation and no challenge was made in that O.A. regarding that fact.

5. The respondents have also taken the stand that at no point of time, he made any representation against the grievance of wrong fixation of pay. It is further contended by the respondents that the applicant was appointed as SOM on 11-12-69 and his pay was correctly fixed in the scale of Rs.150-240. His claim that he should have been given pay w.e.f.15-4-68 when he was paid for the pay of Clerk grade Rs.110-180

is not justified on the ground that he was appointed as SOM only on 11-12-69.

6. The applicant was promoted to officiate as AIOW w.e.f. December, 1970 but he was reverted back as Works Mystery on 1-3-1971. He was again promoted as AIOW w.e.f. 2-4-71 and again reverted as SOM w.e.f. 3-5-71. He was promoted as IOW grade III w.e.f. 1-3-83 on ad hoc basis subject to the passing of selection. Since he did not pass the selection in 1986, he was reverted to his substantive post of SOM w.e.f. 29-5-86 in the revised scale Rs.1400-2300. Thus, he could not be allowed increments. In view of this fact, the applicant cannot be said to have been treated arbitrarily as he could not qualify in selection.

7. The applicant was imposed the penalty of WIT of 3 years and the penalty was from 1-5-86 to 30-4-89. After he has accepted the punishment, his pay has been fixed at Rs.1,840/- w.e.f. 1-5-89. The appeal against that representation is still pending and the contention of the applicant the penalty was imposed without resorting to the disciplinary appeal rules of 1968 is incorrect.

8. We have also gone through the rejoinder filed by the applicant and we could not find any merit, after going through the pleadings of the parties. No case is made out for interference and the grievance agitated by the applicant is self-created one and is much belated and barred by limitation. The

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application, therefore, is dismissed as devoid of merit, leaving the parties to bear their own costs.



(B.K.SINGH)
MEMBER (A)



J.P.SHARMA
MEMBER (J)

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