

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 833/1989
T.A. No.

199

DATE OF DECISION February 4, 1991.

Shri Balwant Singh & 8 others. Petitioner(s).

Shri B.S. Maine, Advocate for the Petitioner(s)

Versus

Union of India Respondent

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. I.K. Rasgotra, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓


(AMITAV BANERJI)

CHAIRMAN

4.2.1991.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

D.A. No.833/1989. Date of decision: 14.2.1991.

Shri Balwant Singh & 8 Others Applicants.

vs.

Union of India

through

The General Manager,
Northern Railways,
Baroda House,
New Delhi.

...

Respondent.

CORAM:

HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the applicants ...

Shri B.S. Mainee,
counsel.

For the respondent ...

None.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice Amitav Banerji, Chairman).

The applicant, Shri Balwant Singh & 8 others
have filed this Application under Section 19 of the
Administrative Tribunals Act, 1985 aggrieved by the failure
of the respondents to give benefit of the judgment delivered
by a Division Bench of this Tribunal in TA 319/1985 dated
24.9.1987 - BALWANT SINGH & ORS. Vs. U.O.I. & ORS. in
which they were also the applicants.

According to applicant No.1, the benefit of the
aforesaid judgment has been given to 15 applicants and
one Shri S.C. Bhatnagar who approached this Tribunal in
D.A. No.918/1989 which has been decided in his favour on
19.11.1990. The applicant No.1 is the solitary person

who has not been given the benefit of the decision in TA 319/1985. It is stated that his case is exactly the same as the case of Shri S.C. Bhatnagar Vs. U.O.I. & Or (OA No.918/1989) decided on 19.11.1990 and he is also entitled to the same reliefs as were granted to Shri Bhatnagar

Shri B.S. Mainee who appeared for the applicants in the present O.A. as well as Shri S.C. Bhatnagar in O.A. 918/1989 urged that the respondent has no reason at all for depriving the applicant what was due to him and which was given by the Tribunal in TA 319/1985 dated 24.9.1987.

Although this O.A. is filed by Shri Balwant Singh and 8 others, it is not pressed on behalf of the 8 others as they have all received the benefit of the judgment in T.A. 319/1985.

Briefly stated, the Division Bench of the Tribunal while allowing the TA 319/85 in part, directed the respondents:

"that the Works Accountants who were promoted directly from the grade of UDC as also the Head Clerks promoted as Works Accountant, should be given a unified revised scale of Rs.455-700 w.e.f. the date the revised scales were made generally operative and that the Works Accountants in the integrated seniority list with Head Clerks should be placed en block above the Head Clerks. The circular of 30th March, 1973 stands quashed to this extent."

The applicant's case further was that Northern Railway Headquarters Office, Baroda House, New Delhi issued an Order No.220-E/77 (Loose) EIID dated August 23,

1988 (Annexure A-1 to the O.A.) in regard to proforma fixation of Asstt. Supdt. Works/Supdt. Works grade Rs.550-750 (RS) and Rs.700-900 (RS) respectively. In the above order 15 petitioners including the present applicants were allowed the benefit of the improved seniority position over the Head Clerks as Works Accountants as per the judgment in TA 319/1985 but the case of the applicant No.1 was not decided correctly. He was due for promotion in grade Rs.335-425 (AS) Rs.550-750 (R.S.) w.e.f. 1.12.1968 the date from which Shri R.K.Talwar junior to him was promoted as Assistant Superintendent. The applicant No.1 was given the promotion w.e.f. 21.11.1969 instead of 1.12.1968. The applicant also mentioned in the present O.A. that he was promoted as Superintendent (Works) on 4.12.1980 although he was eligible to be promoted as Superintendent (Works) from 1.1.1979. It is stated that by order dated 23.8.1988 (Annexure A-1 to the OA) the competent authority had approved that the applicants should be given proforma fixation with reference to their juniors and arrears should be paid in the respective grades, i.e. 500-750 (RS) and Rs.700-900 (RS) from the date they actually shouldered the higher responsibility. The respondents gave the benefit of proforma fixation of pay from the dates from which their juniors had been promoted but failed to pay the arrears of pay keeping in view the salary which the applicants ought to have drawn had they been promoted from the date from which

their juniors were promoted. It is stated that action of the respondent in not assigning the proper seniority to the applicants was an administrative error. Had the seniority of the applicants been correctly assigned, they would have been promoted much earlier and would have drawn the salary which was due to them and which had been drawn by their juniors. It was also urged that the applicants were also entitled to arrears of pay irrespective of the dates from which they were physically promoted. The applicant prayed that a direction be given to the respondent to give promotion to Applicant No.1 as Assistant Superintendent w.e.f. 1.12.1968 as also fixation of pay and arrears accordingly. He also prayed interest on the arrears as well.

We have seen the reply filed on behalf of the respondent. Three preliminary objections have been taken viz., the Application was misconceived and not maintainable under the law; no cause of action had accrued in favour of the applicants and against the respondents; and lastly the applicants have not exhausted the departmental remedies available to them.

We have considered this and we find no merits in the preliminary objections. As regards the merits, a reference may be made to paragraph 4.8 of the reply. It is submitted that Shri R.K.Talwar who was junior to Shri Balwant Singh, his date of promotion was not readily available. Now it has been seen from the records that

Shri R.K.Talwar was promoted as Assistant Supdt./Works on 1.12.1968 as such the revised seniority position of Shri Balwant Singh will be restored."

However, it has to be mentioned that even after the above statement of the fact in the reply filed on 20.11.1989, the order had not been implemented. In paragraph 4.10 of the reply it was mentioned that revised position will be restored to Shri Balwant Singh w.e.f. 1.12.1968 instead of 21.11.1969. Regarding proforma fixation, it was stated that the same is based on Railway Board letter No.E(NG)63-EMI/92 dated 15/17.9.1964. In paragraph 4.23 of the reply it was submitted that payment of arrears etc. not denied. However, no interest is payable thereon as per the expenditure rules.

We have considered the matter and we see very little difference between the present case and that of Shri S.C. Bhatnagar's case which was decided by this Division Bench on 19.11.1990. We would quote a part of that judgment:

"The position, therefore, is that in spite of an order passed in favour of the applicant in TA 319/1985, the same had not been complied with as far as the applicant is concerned. We are of the view that this is a fit case where the respondents should be told in clear words that they have failed to implement the order of the Tribunal and have been sitting over it without any valid reasons. The Tribunal takes a dim view of the matter. The Railways is one of the biggest establishment in India and there is no reason why they are not able to implement an order of the Tribunal even after three years of the order passed on 24.9.1987...."

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We had also allowed the O.A. and directed the respondents to implement the order dated 24.9.1987 passed in TA 319/1985 within a period of one month on receipt of a copy of the same: The applicant was awarded costs.

In the present case, no one has appeared on behalf of the respondent. But nevertheless the respondent had compelled the applicant to come to this Tribunal on account of their failure to implement the order passed in TA 319/1985.

We are, therefore, of the view that the O.A. is to be allowed and we order accordingly. We further direct the respondent to implement the order dated 24.9.1987 passed in TA 319/1985 within a period of one month, if they have not already done so. The respondent is also directed to include the name of the applicant in the earlier panels of Assistant Superintendent (Works) w.e.f. 1.12.1968 and Superintendent (Works) w.e.f. 1.1.1979 in which the name of his junior had already been included. The respondent is further directed to fix the pay of the applicant as has been done in the case of other applicants giving him the benefit of annual increments. The respondent is also directed to pay the arrears to the applicant from the date he ought to have been promoted as Assistant Superintendent (Works)/Superintendent (Works), and to refix the pension of the applicant according to the pay refixed as per the above directions.

We are further of the view that the applicant is entitled to costs since he had been forced to come to

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the Tribunal and the earlier order dated 24.9.1987 passed in TA 319/1985 was not implemented. Cost of Rs.1000/- (Rupees one thousand only) is awarded. The prayer for payment of interest is, however, declined.

Subhash
(I.K.RASGOTRA)
MEMBER (A)

4.2.1991.

Amitav
(AMITAV BANERJEE)
CHAIRMAN.

4.2.1991.

SKS