

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.167/88

NEW DELHI, THIS THE 3RD DAY OF DECEMBER, 1993.

MR. JUSTICE S. K. DHAON, VICE-CHAIRMAN (J)

Shri Vijay Kumar
S/o Shri Dwarika Prasad
Shuntman officiating as
YFO through Chief Yard
Master at KJGY, Saharanpur ...

Applicant

None for the applicant

vs.

1. Union of India
through its General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Personnel Officer
D.R.M. Office,
Northern Railway,
New Delhi. . .

Respondents

By Advocate Shri R.L.Dhawan

ORDER (ORAL)

JUSTICE S.K.DHAON

This application has been called out in the revised list. Neither the applicant is present nor his counsel. I am proceeding to dispose of this application finally.

2. Shri R.L.Dhawan, Advocate has appeared on behalf of the respondents. He has drawn my attention to the counter-affidavit filed by the respondents. No rejoinder-affidavit has been filed in this case. In the absence of any rejoinder-affidavit, there is no option but to proceed on the assumption that the averments made in the counter-affidavit are correct.

3. The prayers, in main, are that the respondents be directed to confirm the applicant as Y.F.O. and to pay him the difference of pay from 1.1.1978 to till date.

4. The applicant's case is that he is officiating as Y.F.O since 1.1.1978. Therefore, a direction should be issued to the respondents to confirm him from that date.

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5. In the counter-affidavit filed, the material averments are these. The applicant was promoted as Shuntman grade Rs.210-270 in class-IV with effect from 26.8.1976. The next higher post to which he is eligible for promotion is Trains Clerk grade Rs.260-400 in Class-III which is a selection post. The Trains Clerk by option can be promoted to the next higher grade of Rs.260-560(RS) as Senior Trains Clerk or as Y.F.O./AYM. The applicant's services were utilised as Trains Clerk grade Rs.260-400 on ad hoc basis in local arrangements during the following periods for which officiating allowance was sanctioned vide D.P.O., New Delhi's letter No.42-E/37/208/P I dated 1.3.1980:

24.7.78 to 6.10.78

7.10.78 to 9.4.79

10.4.79 to 15.8.79

allowance as
The applicant was sanctioned officiating/ Trains Clerk
grade Rs.260-400(RS) for the following periods:

16.9.79 to 15.9.80

16.9.80 to 23.6.81

He was sanctioned officiating allowance as YFO/AYM grade Rs.330-560 from 1.3.83 to 22.4.89. The applicant has accepted the payment of the said officiating allowance as Y.F.O grade Rs.330-560 vide letter dated nil(Annexure R-2). The applicant is not eligible for confirmation as Y.F.O./AYM in grade Rs.330-560.

6. From the tenor of the counter-affidavit, it appears that the post of Trains Clerk is a selection post. Thereafter, promotion to the post of Senior Trains Clerk or Y.F.O/AYM is in the normal course. The learned counsel for the respondents states that the criteria of promotion from the post of Trains Clerk is seniority-cum-fitness.

It is apparent that the post of Trains Clerk being a selection post, one has to be appointed as Trains Clerk on regular basis before he can claim further promotion. In this case, the applicant has not come out with a case that he was ever selected as Trains Clerk. The question, therefore, of his being confirmed with retrospective effect does not arise. That should be an end to this application. However, the respondents have pointed out that the applicant had been made due payments whenever work had been taken from him on a higher post on officiating basis.

7. There is no merit in this application. It is dismissed. There shall be no order as to costs.

S.K.
(S.K.DHAON)
VICE-CHAIRMAN(J)

SNS