

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(8)

O.A. No. 354/ 1986
T.A. No.

DATE OF DECISION 8.9.1987.

Shri Bhagwan Dass Petitioner

Shri R. L. Sethi Advocate for the Petitioner(s)

Versus

General Manager, Northern Rly. Respondent(s)
and others

Shri M. L. Verma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. KAUSHAL KUMAR, Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to their Benches? *No*

KAUSHAL KUMAR
(KAUSHAL KUMAR)
MEMBER
8.9.1987.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 354/86.

September 8, 1987.

Shri Bhagwan Dass

....

Applicant.

V/s.

General Manager, Northern
Railway and others

....

Respondents

CORAM: Hon'ble Mr. Kaushal Kumar, Member.

For the applicant

....

Shri R. L. Sethi, counsel.

For the respondent No. 3

....

Shri M. L. Verma, counsel.

(Judgment delivered by Hon'ble
Mr. Kaushal Kumar, Member (A)

JUDGMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985 wherein the applicant has prayed that his pay on appointment as Permanent Way Inspector, Grade-III in the Northern Railway be fixed under the normal operation of rules at a stage at par / next stage to the pay last drawn by him viz., Rs.570/- per month and also to allow him arrears accruing from such pay fixation.

2. A few facts necessary to appreciate the various contentions put-forth in this case may be noticed below: The applicant joined the Central Railway on 18.8.1975 as Apprentice Mechanic in the scale of Rs. 380 - 392. Thereafter he was promoted to the post of Chargeman in the scale of Rs. 425-700 with effect from 1.5.1977 and again promoted on an ad-hoc basis as Sr. Chargeman in the scale of Rs.550-750 with effect from 1.6.1981. While working as Sr. Chargeman in the Central Railway, the applicant applied for the post of Permanent Way Inspector Grade III in the scale of Rs.425-700 to the Railway Service Commission, Northern Railway, Allahabad. He was selected for the said post and relieved from the Central Railway on 3.2.1983 and he joined the Northern Railway as Permanent Way Inspector

Mr. Kaushal Kumar

on 4.2.1983. 10

3. The above facts are not disputed by the respondents and are also corroborated by the Last Pay Certificate (Annexure I to the application). The short point for determination in this case is regarding the pay which the applicant should be allowed on his joining as Permanent Way Inspector in the Northern Railway.

4. The pay of the applicant was earlier fixed at the minimum of the pay scale of Rs.425-700 attached to the post of Permanent Way Inspector viz., Rs.425/- with effect from the date of his joining the said post. However, during the pendency of this application, a revised pay fixation order was issued by the office of the DRM, New Delhi, vide No. 726-E/4/655 (PS) dated 5.8.1986 (Annexure R-6 to the counter on behalf of respondents No. 1 and 2). By this order the applicant has been given the benefit of his continuous officiation in the pay scale of Rs.425-700 and taking his pay at Rs.500 on 1.5.1982, the same has been allowed to him in the new post of Permanent Way Inspector Grade III as well, the date of increment remaining the same viz., 1st May, and further annual increments in the scale of Rs.425-700 have been allowed raising his pay to Rs.515 w.e.f. 1.5.83 and Rs.530 w.e.f. 1.5.84 etc.

5. The learned counsel for the applicant has relied on the provision in para 604 of the Establishment Manual which has been referred to in B. S. Maine's Railway Establishment Rules & Labour Laws (Chapter VI) which reads as follows: -

"(3) Transfer from higher to lower posts:

When a Railway servant is transferred from a higher post to a lower post, the benefit of completed years of service in the higher post may be given for purposes of advance

M. S. Mehta

increments in the lower post to which a Railway servant is appointed, provided, of course this does not exceed the pay drawn in the higher post at the time of transfer. In case the appointment to the lower post involves appointment to a regular cadre with immediate or future prospects of absorption as a permanent Railway servant, care should be taken to see that grant of advance increments does not come into conflict with the pay fixed for other Railway servants in the cadre. In such cases, normally, it may be preferable to fix the pay at the minimum of time scale and to grant, subject to the approval of Railway Board, a personal pay equal to the appropriate number of increments instead of fixing the pay at a higher stage in the time scale, the personal pay being absorbed in future increments."

6. In accordance with the above provisions, the applicant is entitled to one advance increment in the lower grade of Rs.425-700 since he had completed one year of service in the scale of Rs.550-750 on the date of his appointment as Permanent Way Inspector. As such, his pay should have been fixed at Rs.515/- with effect from 4.2.1983 with the next increment falling due on 1.5.1983 as per PS No.1099 circular No.831-E/147-II (E iv) dated 25.3.1961 which envisages that:

"when a Railway servant whether Permanent or temporary is permitted to apply either through the UPSC or otherwise for recruitment to another post on the same or another Railway and on selection is appointed to the new post and no break in service being involved, his past service should count for all purposes (incl. leave, pension, PF, Passes, increments etc.) except seniority...."

Since the past service is to be counted for the purpose of increments and the date of increment when the applicant

Mr. Kumar

was earlier holding the grade of Rs.425 - 700 was 1.5.1983, the said date will remain unchanged for the purpose of future increments and the applicant's pay will be raised to Rs.530/- with effect from 1.5.1983. The subsequent increments in the pay scale of Rs.425 - 700 will be admissible on the said basis. However, the applicant is not entitled to protection of his pay at Rs.570/- which he was drawing in the higher scale of Sr. Chargeman on an ad-hoc basis.

7. The application is partly allowed as above directed with no order as to costs.

K. Kumar 87/8 (B)
(KAUSHAL KUMAR)
MEMBER
8.9.1987.