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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.1083/87

DATE OF DECISION: 8.11.1991

HARI SAROOP SHARMA

...

APPLICANT

VERSUS

UNION OF INDIA & ORS.

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RESPONDENTS

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

FOR THE APPLICANT : SHRI G. D. BHANDARI, COUNSEL

FOR THE RESPONDENTS : SHRI B. K. AGGARWAL, COUNSEL

JUDGMENT


Shri Hari Saroop Sharma, the applicant has filed this Original Application, under Section 19 of the Administrative Tribunals Act, 1985 to seek redress of his grievance in regard to fixation of pay.

2. The facts of the case are that the applicant while working as Senior Booking Clerk in the pay scale of Rs.330-560 at Tohana Railway Station was promoted as Head Booking Clerk in the pay scale of Rs.425-640 vide notice dated 29.11.1982. He was to be relieved by Shri Surinder Kumar, Booking Clerk, Nilokheri and the said replacement order was also incorporated in the notice dated 29.11.1982. When Shri Surinder Kumar did not report to relieve the applicant, the Station Master, Tohana sent a number of messages to NLKR with copies to TI/PNP, DPO and DCS New Delhi. The applicant, however, could not be relieved as there was only one Senior Booking Clerk at Tohana Railway

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Station. The applicant also represented to the D.R.M. vide his letter dated 24.12.1984, seeking protection of his pay with reference to his juniors who had taken over as Head Booking Clerks in accordance with the notice dated 29.11.1982. The D.R.M. in turn recommended his case for giving him the benefit of srl. No.2709 and 2729 for grant of proforma fixation from the date of promotion of the persons junior to the applicant to the General Manager. The applicant was, however, ultimately relieved only on 17.9.1983 and retired from service on 31.8.1986 in the scale of Rs.550-750. His contention is that had he been relieved in time his pay would have been fixed at a stage of one increment higher in the scale of Rs.550-750 on his promotion to that scale and consequently he would have drawn Rs.725/- on 1.1.1986 as against Rs.700/-. Thus the administrative delay that took place in relieving him from Tohana to join at KKDE as Head Booking Clerk in the pay scale of Rs.425-640 has adversely affected his pension and other retiral benefits.

By way of relief he has prayed that the respondents be directed to step up his pay to the level of the pay drawn by his juniors from the date his junior joined as Head Booking Clerks in the pay scale of Rs.425-640 and consequently his retiral benefits e.g. pension, gratuity, leave encashment be recalculated and differential paid to him with 18% interest for the delayed payment.



3. The respondents in their counter reply have not disputed the facts of the case. They, however, submit that srl. No.2709 and 2729 are not applicable in his case, as there is no administrative error involved. The applicant was promoted correctly. He, however, could not be relieved as his reliever did not join at Tohana Station.

4. I have heard Shri G.D. Bhandari, learned counsel for the applicant and Shri B.K. Aggarwal, learned counsel for the respondents and have perused the record carefully. Shri Bhandari, learned counsel for the applicant in the course of the hearing pointed out that there was a mistake committed by the office of the respondents while issuing notice dated 29.11.1982, as there was no employee by the name of Shri Suurinder Kumar working as Booking Clerk at NLKR Station who was ordered to relieve the applicant at Tohana and that this was the primary reason for the delay in relieving the applicant to take up the higher grade assignment at the new station of posting. The fact of delay in relieving the applicant by Station Master, Tohana was fairly conceded by the learned counsel for the respondents.



In the above view of the matter it will be fair and proper if the applicant is given the benefit of proforma fixation from the date his next junior was fixed in the scale of Rs.425-640 on taking over as Head Booking Clerk, as per notice dated 29.11.1982. Consequently, his pay shall also be required to be refixed in the higher scale of Rs.550-750 from which he retired on 31.8.1986 on proforma basis. Accordingly, I order and direct that the respondents shall refix the pay of the applicant as above and refix his pension with reference to the proforma pay and pay him the differential between the gratuity, leave encashment already paid and as would be due to him consequent to the revised fixation of pay on proforma basis first in Rs.425-640 and thereafter in Rs.550-750 -. The differential amount by way of pension DCRG, leave encashment shall be paid to the applicant within 8 weeks from the date of communication of this order. I further direct that the applicant shall be entitled to interest at the rate of 12% for the period of delay, if the payment is not made within the period as prescribed above.

There will be no order as to costs.


(I. K. Rasgotra)
Member (A)

8/11/91