

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO 1226 of 2004

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New Delhi this the 11 day of November 2004

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)

Vijay Kumar &/o Shri Sardar Lal
R/o 50, Chaman Garden Extn.,
Karnal.

.....applicant.
(Applicant in person)

Versus

1. General Manager, Northern Railway, HQ, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, DRM Office, New Delhi.

.....Respondents.

(By Advocate : Shri A.K. Shukla)

ORDER (ORAL)

HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN (A):

Heard.

2. Applicant has claimed first financial upgradation in grade of Rs.5500-9000 w.e.f. 1.10.1999 with arrears on salary in this grade, with interest and other consequential benefits. Earlier on applicant had approached this Tribunal through OA 3208/2002 which was disposed of vide order dated 10.12.2002 with the following observations/directions:-

“3. At this stage, when the rights of the respondents are not likely to be effected, we deem it unnecessary to issue any show-cause notice while disposing of the present application.

4. Accordingly, it is directed that respondent No.3 should consider the aforesaid representation/appeal of the applicant, a copy of which is Annexure A-3, and pass a speaking order preferably within a period of six months from the date of receipt of a certified copy of this order. It should be conveyed to the applicant.

5. By way of abundant caution, it is stated that nothing said herein should be taken as an expression of opinion on the merits of the present case.

6. Subject to aforesaid, the present OA is disposed of.”

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3. Applicant has assailed respondents' order dated 24.2.2003 (Annexure A/1) which is essential to the following effect:-

"Since you did not appear in the written test, you have not been given the financial upgradation so far. It has now been decided to hold written test again on 24-3-2003 at 10.00 hours in DRM Office, New Delhi and in case you pass the same you will be given the financial upgradation to Grade Rs.5500-9000 w.e.f. 9-6-2001."

4. Admittedly, applicant has appeared in the written test under the ACP Scheme on 24.3.2003 and cleared this test but he has not been accorded financial upgradation in Grade of Rs.5500-9000 at all on the plea that the departmental inquiry is pending against him.

5. Applicant has pointed out that he has yet not been served any chargesheet related to the departmental inquiry stated to be the ground for non-grant of financial upgradation by the respondents. Applicant has also filed during the course of the argument a copy of order dated 7.6.2003 whereby respondents have fixed applicant's pay w.e.f. 21.4.1987 onwards. However, the condition has been stipulated therein that no arrears shall be paid from 21.4.1987 to 30.9.90.

6. Vide Annexure A-3 applicant was offered appointment as Commercial Apprentices on 10.4.1987 with the respondents in Grade Rs.1400-2300 and he was to remain on training from 21.4.1987 to 20.4.1989. As per Annexure A-3, after completion of training, applicant was required to pass the prescribed written test which is followed by interview. On being declared successful, he was to be absorbed as Assistant Claims Inspectors/Supervisor, Assistant Commercial Inspector/Assistant Rates Inspector (Goods and Coaching) & Assistant Inspector of Commercial performing outdoor duties according to availability of vacancies in scale Rs.1400-2300 plus such allowances. Vide order dated 7.6.1993, applicant has been appointed on substantive post w.e.f. 21.4.1987, however, without any arrears from 21.4.1987 to 30.9.1990. On the basis of this letter, applicant ought to have been considered for accord of first financial upgradation after completion of 12 years from 21.4.1987. Now, that he has passed the test under ACP Scheme, he is entitled to grant of first financial upgradation w.e.f. 1.10.1999, having completed 12 years from 21.4.1987. However, this letter is subject to verification



(3)

(a)

by the respondents as this document has been produced by the applicant during the course of hearing today.

7. Learned counsel of the respondents stated that respondents would not have any objection to consider the claim of the applicant for accord of first financial upgradation from 21.4.1987 in case respondents have issued letter dated 7.6.1993.

8. Having regard to the discussion made above, this OA is disposed of with a direction to the respondents to accord first financial upgradation to the applicant in Grade Rs.5500-9000, now that applicant has passed the requisite written test, provided that on verification respondents find that they have issued letter dated 7.6.1993. Respondents are directed to take a final decision in this regard expeditiously and preferably within a period of two months from the date of communication of these orders. In the eventuality of grant of first financial upgradation w.e.f. 1.10.1999, applicant shall be entitled to consequential benefits. This is clarified that grant of financial upgradation as above will not affect the conduct of the departmental proceedings against the applicant. OA is disposed of accordingly.

S. Raju

(Shanker Raju)
Member (J)

/ravi/

V.K. Majotra

(V.K. Majotra)
Vice Chairman (A)

4.11.04