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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O. A. NO. 1308/92

DECIDED ON : 26. 3. 93

Shri I. S. Parmar

... Applicant

-Versus-

C.R.R.I. & Anr.

... Respondents

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri K. N. Bahuguna, Counsel for Applicant

Shri A. K. Sikri, Counsel for Respondents

JUDGMENT

The applicant is Ex-Senior Foreman, C.R.R.I. (Central Road Research Institute) and filed this application under section 19 of the Administrative Tribunals Act, 1985 having the grievance that after the retirement of the applicant on 30.4.1987 the respondents have not correctly fixed his pensionary benefits and his pension has been fixed provisionally in the old pay scale of Rs.550-900 (revised to Rs.1640-2900). The pay of the applicant w.e.f. 1.1.1987 was fixed at Rs.2825/- in the pay scale of Rs.1640-2900 but the pensionary benefits have not been fixed on the basis of last pay drawn and that he has been paid lesser amount of gratuity, commutation of pension at the old provisional rate of Rs.550-900 instead of the new pay scale of Rs.1640-2900. The grievance of the applicant has also been that under bye-law 71(b) framed by the respondents for the promotion of scientific/technical staff the applicant has not been assessed in the next higher grade before his superannuation w.e.f. 30.4.1987. The case of the applicant is that he was overdue firstly for the grade of Rs.650-1200 w.e.f. 1.6.1980 and secondly for the grade of Rs.700-1300 w.e.f. 1.6.1985.

2. The applicant has prayed for the grant of the following reliefs :-

- (a) A direction to respondent No.2 to fix the pension of the applicant in the revised pay scale of Rs.1640-2900 instead of provisionally fixing the same in the old scale and also a consequential relief to make the payment of the difference of gratuity, commuted value of pension, leave encashment etc. to the applicant in the revised pay scale at Rs.2875/-.
- (b) The applicant has also prayed for a direction to respondent No.2 to automatically assess the applicant under bye-law 71(b) in the higher grades of Rs.2000-3500 w.e.f. 1.6.1980 and further in the grade of Rs.2200-4000 w.e.f. 1.6.1985 to which the applicant was overdue before his superannuation on 30.4.1987, and as a consequence thereof to further revise the pension of the applicant after assessing the applicant lastly in the pay scale of Rs.2200-4000.

3. The application was placed before the Bench on 15.5.1992. It was admitted with respect to relief at para 8 (a) and the applicant wanted to amend the relief at para 8 (b). The applicant has since not amended the relief, though the scope of this application is confined only to the grant of relief at para 8 (a), referred to above.

4. The respondents in their counter have also confined their reply to the grant of relief at para 8 (a) referred to above and stated that the applicant was assessed and promoted to the next higher grade of Rs.550-900 (pre-revised) w.e.f. 20.6.1975 vide office order No. 328 dated 29.4.1987. In fact, the

technical employees of the C.S.I.R. are governed by two different assessment schemes, namely, (1) assessment scheme under erstwhile bye-law 71(b) and (2) merit and normal assessment scheme. Foremen (Workshop) were not eligible for assessment. They have been governed for eligibility under erstwhile bye-law 71(b) only from 20.6.1975 as per instructions issued by the C.R.R.I. vide order dated 10.11.1983. Prior to 10.11.1983, this category of staff was covered for the benefit of assessment w.e.f. 1.2.1981 in the NRAS which was the formative from MANAS. The applicant under the new recruitment and assessment scheme which was introduced w.e.f. 1.2.1981 was promoted under the said scheme to the grade of Rs.550-900 (pre-revised) w.e.f. 1.2.1981. However, subsequently, C.R.R.I. have extended the benefit of assessment under the erstwhile bye-law 71(b) to those staff who were in the pay scale of Rs.425-700 (pre-revised) and above from their due date or 20.6.1975, whichever was later.. The applicant, ex-Foreman (Mechanical) was eligible for his assessment to the next higher grade of Rs.550-900 (pre-revised) w.e.f. 20.6.1975 under the said provisions. All such eligible staff were given option in terms of C.R.R.I. letter dated 1.5.1984 to come over into the erstwhile bye-law 71(b). The applicant opted for erstwhile bye-law 71(b) foregoing the assessment already availed by him under NRAS. As such, the applicant was assessed and promoted to the higher grade of Rs.550-900 w.e.f. 20.6.1975 instead of w.e.f. 1.2.1981 under the new assessment scheme (NRAS).

5. The respondents, therefore, have given a comparative chart of the pay which was drawn prior to the promotion order and the pay to be fixed as Senior Foreman in the pay scale of Rs.550-900 according to the normal operation of the rules. The same is quoted below :-

"Pay which he was drawing prior to his promotion order

1. 600/- 1.3.1975
2. 625/- 27.11.1975
as Jr. Foreman
(500-850)
3. 650/- 1.11.76
4. 675/- 1.11.77
5. 700/-
6. 750/- w.e.f. 9.2.79 as
Sr.F.Man on pro-
tempore basis
(550-900)
7. 780/- 1.2.80
8. 810/- 81
9. 840/- 1.2.81 as
Sr.F.Man reg. promoted
with 2 advance incre-
ment in p.s. Rs.550-900
10. 870/- w.e.f. 1.2.82
11. 900/- 1983
12. 900/- 1984
13. 900 + 30 p.p. w.e.f.
1.2.85
14. 2750/- revised
- 15 = 2825/- 1.1.87*

Pay is to be fixed as Sr. Foreman in the pay scale of Rs.550-900 to be revised scale according to operation of normal rules

1. 625/- w.e.f. 20.6.75
2. 650/- 1.6.76
3. 675/- 1.6.77
4. 700/- 1.6.78
5. 725/- 79
6. 750/- 1.6.80
7. 780/- 1.6.81
8. 810/- 82
9. 840/- 83
10. 870/- 84
11. 900/- 1.6.85
12. 2600/- w.e.f. 1.1.86
(revised)

13. 2675/- 1.1.87
Shri Parmar retired on
30.4.87 (A.N.) after
attaining the age of
superannuation.

6. According to the respondents, the pay drawn by the applicant has been correctly worked out under the normal rules.

7. I have heard the learned counsel for the applicant on 8.2.1993 when the learned counsel for the respondents was directed to file his calculation sheet indicating the total amount to be paid to the applicant subsequently to the filing of this O.A. On 18.3.1993, the applicant or his counsel did not appear and Shri V. K. Rao, appeared as proxy counsel for Shri A. K. Sikri on behalf of the respondents. The matter is, therefore, being disposed of on the basis of the pleadings on record. During the course of arguments, the learned counsel for the respondents has pointed out that the stage of assessment of the applicant under 71(b) in the further grade of Rs.650-1200 and Rs.700-1300 is yet to be done as the applicant

has opted for the benefit of assessment under bye-law 71(b). The respondents have already issued the revised pensionary benefits to the applicant fixing the pay of the applicant at Rs.2675/- and also calculated the DCRG and other retirement benefits on that basis. The learned counsel for the respondents also argued that there shall be a further revision of this pension and family pension as well as DCRG because the case of the applicant is still under consideration for the benefit of assessment under bye-law 71(b) in the further higher grades of pay, Rs.650-1200 (revised to Rs.2000-3500) and Rs.700-1300 (revised to Rs.2200-4000). The contention of the learned counsel for the applicant that the pay of the applicant has been revised to Rs.2825/- and he should be granted retirement benefits on that basis cannot be accepted in view of the chart of fixation of pay given by the respondents in their counter. In fact, the applicant has been given the benefit of stagnation increment of Rs.30 w.e.f. 1.2.1985 when he was getting the pay at the stage of Rs.900. On this basis his pay was revised to Rs.2750/- and further to Rs.2825/- w.e.f. 1.1.1987. However, by virtue of giving the benefit of bye-law 71(b) the applicant reached the scale of Rs.900 on 1.6.1985 and w.e.f. 1.1.1986 his pay was fixed at Rs.2600 and on that basis on 1.1.1987 his pay was fixed at Rs.2675/-. The contention of the applicant's counsel has been that after tiling of this O.A. and after the order of the Tribunal dated 15.5.1992 the benefit of the new scheme has been given to the applicant but he has not been given the benefit of calculation of pension on the basis of last pay drawn at Rs.2825/-. In view of the statement given by the learned counsel for the respondents that the benefit of assessment of the applicant under bye-law 71(b) in the still higher grades is yet to be done, then finally the pay of the applicant has to be revised and fixed.

8. The learned counsel for the respondents has also given a brief note giving the details of payment effected to the applicant after filing of this application. The same is reproduced below :-

"90% DCRG - Rs.34,570.00 paid in May, 1987
10% DCRG - Rs. 3, 841.00 paid in Dec.87

Difference of DCRG - Rs.5,727/- paid in Oct., 1992

Pension revised w.e.f. 1.5.87 = Rs.1,338.00

Relief of Pension = Rs.1,111.00 as on 1.7.92

Arrears of Pension paid in July 1992

195 x 2	= 390.00
261 x 6	= 1566.00
328 x 6	= 1968.00
395 x 6	= 2380.00
476 x 6	= 2856.00
542 x 6	= 3253.00
596 x 6	= 3576.00
663 x 6	= 3978.00
770 x 6	= 4620.00
890 x 6	= 5340.00
1037 x 6	= 6222.00

36,148.00

Less excess payments (-) 7,423.00

Paid in July, 1992 Rs.28,715.00"

9. In view of the above facts and circumstances, the application becomes premature and is disposed of with the direction to the respondents that they shall, as per the statement of the learned counsel for the respondents, correctly fix the pay of the applicant after the proposed benefit of assessment under bye-law 71(b) in the higher grade of pay of Rs.650-1200 and Rs.700-1300, which have now been revised to Rs.2000-3500 and Rs.2200-4000 respectively. If the applicant is still aggrieved, then he can assail the same, if so advised, subject to the law of limitation. In the circumstances, the parties are left to bear their own costs.

J. P. Sharma
(J. P. Sharma)
Member (J)