

Central Administrative Tribunal, Principal Bench

O.A.No.522/92

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 4th day of June, 1997

(27)

Tilak Raj Bhatia
s/o Shri Dewan Chand
retired T.T.E/Ticket Collector
Northern Railway
Mirzapur, Allahabad(UP).
r/o H-184, Vikas Puri
New Delhi. ... Applicant

(By Shri G.D.Bhandari, Advocate)

Vs.

Union of India through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
Allahabad (UP). ... Respondents

(By Shri H.K.Gangwani, Advocate)

O R D E R(Oral)

The applicant retired from the service of the respondents as Ticket Collector on 31.1.1983. Prior to that he had faced two disciplinary proceedings. In one case he had been reduced in rank and in another case he had been imposed penalty of withholding of increments for two years temporarily. In respect of first punishment, he had filed an OA No.71/89 and the punishment order was quashed. Subsequently, his retirement benefits were paid to him. As no interest has been paid to him, he once again approached this Tribunal and also got the relief inasmuch as the payment of interest on the delayed payment of retiral benefits were allowed.

Yours

2. The facts leading to the present OA are that the applicant was imposed penalty of withholding of two increments vide Annexure A1. According to this order his increment raising his pay from Rs.515 to Rs.530 in the Grade of Rs.330-560(RS) normally due on 1.2.1981 was withheld for a period of two years. The case of the applicant is that the period of two years has been over on 1.2.1983. Since the punishment was without postponing his future increments and he retired on 31.1.1983, he would be entitled to pay of Rs.560 at the time of retirement; consequently, his retirement benefits were to be calculated on that basis. His grievance is that the respondents did not increase his pay from Rs.515 to Rs.560. Therefore, he has approached this Tribunal seeking a direction to fix his pay at Rs.560 and to recalculate his pension, gratuity and leave encashment, etc. on that basis. He has also sought payment of wages from 1.1.1982 to the date of his retirement, i.e., 31.1.1983 on the ground that during this period he was not allowed to function in his job.

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3. The respondents in their reply say that the applicant was absent from duty from 4.12.1981 to 31.1.1983 which period was treated as leave without pay. This period was regularised as leave without pay. Consequently, his last pay has correctly fixed at Rs.515.

4. I have heard the learned counsel on both sides. Initially, a question arises whether there was any application of sanction for leave. However, during the course of the arguments it came to notice that the applicant has stated in Para 4.19 of this OA as follows:

On

"The applicant was not allowed to work on his substantive post of TTE, and under protest he did not work as Ticket Collector in the reduced scale because of the punishment awarded was imposed arbitrarily, illegally and malafide, which contention of the applicant have been accepted by the Hon'ble Tribunal and the punishment orders have been set aside and quashed, as such the applicant is entitled to the wages from 1.1.1982 to 31.1.1983, i.e., the date of retirement."

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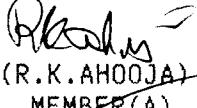
5. The learned counsel submits that since the stand of the applicant was indicated by the order of the Tribunal quashing penalty of reduction in rank, he is entitled to the pay for this period and also to this period for the purposes of increments. I am, however, unable to agree with the learned counsel. If the applicant was kept out of work, by the respondents by means of an order of dismissal or removal from service, the position would have been different. In this case, however, they had reduced him in rank and by way of protest he voluntarily did not work and had come before the Court. As learned counsel for the applicant points out that the Tribunal in its order had allowed the application and said that the applicant was entitled to arrears of pay. However, the question of arrears would arise only if he had worked in the lower post. In the present case, it is not so. In the circumstances, he cannot claim the benefit of this period of absence as on duty merely because his case against the penalty was upheld.

6. In the light of the above discussion, it is clear that the applicant is not entitled to the benefit of counting of the period of his absence towards the earning of increments. That being so, his pay could not be refixed at Rs.560 as claimed by him. Hence there is no reason to interfere with the action of the respondents.

JW

Consequently, all other reliefs sought by him are also inadmissible. The OA is accordingly dismissed. No costs.

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(R.K. AHOOJA)
MEMBER (A)

/rao/