

14

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

....

O.A. No.1028 of 1993

Dated New Delhi, this the 10th day of June, 1994

Hon'ble Shri B. K. Singh, Member(J)

Shri Parhalad Singh
S/o late S. Labh Singh
R/o A-67 Hari Nagar
NEW DELHI-110064

... Applicant

By Advocate: None

VERSUS

Union of India
Through Chairman
Ministry of Railways(Railway Board)
Rail Bhawan
NEW DELHI

General Manager
Northern Railway
Baroda House
NEW DELHI

... Respondents

By Advocate: None

ORDER

Shri B. K. Singh, M(A)

This OA No.1028/93 under section 19 of the Administrative Tribunal Act, 1985 - Shri Parhalad Singh as Applicant and Union of India, through Chairman, Ministry of Railways(Railway Board), New Delhi and General Manager, Northern Railway, Baroda House, New Delhi, against as Respondents has been filed the order No.ERB-II-2507-CP dated 28.5.92 whereby the applicant was deprived of the arrear of pay for the period 1.1.84 to 30.11.84(Annexure A-I).

2. The applicant joined Railway Service in March, 1947 in Quetta Division (now in Pakistan). After partition, the applicant came to Delhi and was posted at Ferozepur Division as a Commercial Clerk and subsequently he came to Delhi Division in 1950. He was promoted to the post

of Enquiry/Reservation duty in the scale of Rs.330-560 and was further promoted in the scale of Rs.425-640, Rs.455-700, Rs.550-750 as Reservation Supervisor. He also worked as Movement Inspector in the same scale of pay of Rs.550-750 plus special pay. He joined as Investigating Inspector Vigilance Special Squad in the Ministry of Railways(Railway Board) and retired from that post on 30.11.84. His case is that he was entitled to be promoted to a post in the pay scale of Rs.700-900 on 1.1.84 consequent to the restructuring of Group 'C' categories in accordance with the Railway Board's order dated 20.12.83. Since he was not given the benefit of this pay scale, he had represented to the respondents and eventually his name was empanelled he was and given the promotion to the post of Chief-Enquiry-cum-Reservation Supervisor vide order dated 12.7.90. He has been paid all retiral benefits by the respondents on his retirement on 30.11.84. He has only been denied the benefit of arrears of pay in the scale of Rs.700-900 from 1.1.84 to 30.11.84. He had made a representation to the respondents and the same was rejected vide order dated 28.5.92 stating that in terms of Railway Board's letter dated 22.8.86, no arrears of pay for the said period was payable to the applicant.

Contd...3

3. The reliefs sought by the applicant are that the respondents be directed to pay the arrears of pay for the period 1.1.84 to 30.11.84 and also to pay an interest of 18% p.a. on aforesaid amount.

4. A notice was issued to the respondents who filed their reply and contested the application and opposed the grant of reliefs prayed for by the applicant.

5. Heard the applicant in person. None appeared for the respondents.

6. The brief averments in the counter reply are that the application is not maintainable being hopelessly barred by time. The applicant is claiming relief against the letter dated 22.8.86 filed as Annexure A-VI and this relief pertains to the period 1.1.84 to 30.11.84. It is admitted that the applicant joined as Investigating Inspector Vigilance Special Squad in the Ministry of Railways, Railway Board in the scale of Rs.425-640 w.e.f. 27.11.90 and that he retired on 30.11.84 in the scale of Rs.550-750. It is further stated that the percentage in grade Rs.700-900(RS) was increased from 1.4% to 5% and not 6% as stated by the applicant. This will be evident from Annexure A-III filed by the applicant. It is also admitted that the representation of the applicant dated 26.12.89 was received by the Respondent No.2 through the Respondent No.1 and accordingly this case was

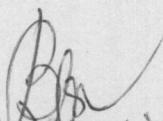
examined by competent authority and accordingly he was empanelled for grade Rs.700-900 (RS) w.e.f. 1.1.84, but since the applicant had already retired after attaining 58 years of age on 30.11.84, he was given the admissible notional benefits in fixation of pay for the purpose of retirement benefits and no arrears were due and as such the same were not paid to him in terms of Railway Board's letter No. PC.III/85/VPG dated 22.8.86 w.e.f. 1.1.84 to 30.11.84. Paras 2 to 4 of the said letter (dated 22.8.86) brings out that these orders were also applicable to those who were in service on the crucial date of restructuring i.e. 1.1.84 but had retired or died before the restructuring orders could be implemented. Para 4 of the said letter further stipulates that the benefits will be only in the form of notional or proforma fixation of pay. Para 5 further provides for the pay thus fixed notionally or proforma will be counted for the purpose of calculation of retirement benefits. The applicant retired on 30.11.84 in the scale of Rs.550-750. However, Northern Railway promoted the applicant in July, 1990 and he was extended the benefits of restructuring w.e.f. 1.1.84 in scale of Rs.700-900. It is evident that the applicant was in service on the crucial date of restructuring, but he had retired by the time the restructuring orders were implemented by Northern Railway and hence Board's orders dated 22.8.86 were made applicable and his pay

(b)
Contd..5

scale was fixed w.e.f. 1.1.84 on notional/proforma basis. In the light of the Railway Board's circular dated 22.8.86, the pay thus fixed was counted for the retirement benefits and the payments due to the applicant were made. When pay is fixed on proforma basis or on notional basis, arrears are not payable and, therefore, the respondents rejected the representation of the applicant for payment of arrears w.e.f. 1.1.84 to 30.11.84, in the light of the aforesaid circular of the Railway Board.

7. There are statutory rules for fixation of pay on proforma/notional basis. There is no question of payment of arrears. Thus, the contention of the applicant that he is entitled to payment of arrears, is not tenable in the light of the Railway Board's circular and guidelines issued from time to time. The cause of action arose in 1984 and this application has been filed on 4.5.1993. The applicant should have agitated the matter in 1985 when the Tribunal came into being w.e.f. 1.11.85 or any other competent forum. However, the case of S. S. Rathore will not be applicable to this case as the applicant was finally given the pay scale of Rs.700-900 on the basis of his representation, only in 1990. His representation regarding payment of arrears has been rejected only on 28.5.1992 and as such it will be treated to be

within limitation, but on merits, the applicant has no case as discussed in foregoing paragraphs and accordingly the application is dismissed as devoid of any merit, leaving the parties to bear their own costs.


(B. K. Singh)
Member (A)

dbc