

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 08th day of October, 2004.

Original Application No. 1167 of 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

Raj Kumar Pathak S/o Late Jai Narain Pathak
a/a 67 years, R/o Natrajpuram, Tundla Road,
Tundla, Distt. Firozabad.

.....Applicant

Counsel for the applicant :- Sri S.S. Sharma

V E R S U S

1. Union of India through the General Manager,
North Central Railway, Headquarters Office, Allahabad.
2. The Divisional Railway Manager,
North Central Railway, DRM Office, Allahabad.

.....Respondents

Counsel for the respondents :- Sri A.K. Gaur

O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

By order dated 18.07.1994 the applicant was awarded punishment of reduction to the scale of Rs. 1600-2660 with basic pay fixed at Rs. 2100/- for a period of three years from the date of order or till his retirement whichever is earlier. The order aforesaid was slightly modified by the appellate order dated 31.03.1995 whereby the applicant was visited with penalty of reversion by one stage in the same time scale till his retirement. The applicant retired on superannuation w.e.f 31.03.1995. The order of punishment passed by the Disciplinary Authority and one passed by the Appellate Authority were challenged in O.A No. 447/96. The Tribunal by its order dated 08.08.2003 set aside the orders aforesaid in terms of the following direction :-

"The O.A is allowed. The punishment order dated 18.07.94 (Annexure A-17) and the appellate order date 31.03.1995

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(Annexure A-1) are quashed. The applicant shall be paid the financial loss, which have occurred to him on account of punishment order, within a period of four months from the date of receipt of a copy of the order."

This original application seeks following reliefs :-

- (a) The Tribunal may graciously be pleased to direct the respondents to issue promotion order of the applicant on the post of Chief Inspector or Works w.e.f 01.01.1991 in the grade Rs. 2375-3500/- and payment of arrear of pay in this grade from 01.01.1991 to 31.12.1991.
- (b) The Tribunal may graciously be pleased to direct the respondents to open seal cover for selection of the applicant on the post of Assistant Engineer in grade Rs. 2375-3750/- as held vide notification dated 09.07.1991 by the General Manager, N. Rly., New Delhi for which he passed the written test as per letter dated 12.09.1991 and he was called for interview and appeared on 19.09.1991 vide letter dated 18.09.1991 but his result was withheld due to pending D&AR proceedings against him at that time.
- (c) The Tribunal may graciously be pleased to direct the respondents to issue promotion order of the applicant on the post of Assistant Engineer in grade Rs. 2375-3750/- w.e.f 01.01.1992 as per promotion order issued by the General Manager, N. Rly., New Delhi vide letter dated 07.10.1991 of other candidates.
- (d) The Tribunal may graciously be pleased to direct the respondents to fix the pay of the applicant in grade of Rs. 2375-3750/- on the post of Assistant Engineer w.e.f 01.01.1992 and to make payment of arrears on this account upto 31.03.1995.
- (e) The Tribunal may graciously be pleased to direct the respondents to pay difference in payment of all retiral benefits and pensionary benefits to the applicant on account of fixation of pay in grade Rs. 2375-3750 on the basis of basic pay in this grade on 31.03.1995 the date of retirement of the applicant which comes to Rs. 1,48,744/- as mentioned against para 4.24 of this O.A.
- (f) The Tribunal may graciously be pleased to direct the respondents to pay interest @ 18% per annum

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compounded annually on Rs. 1,48,744/- from the date the amount is due to the applicant till it is paid to him.

(g) The Tribunal may graciously be pleased to direct the respondents to pay compensation for mental torture, harassment, loss of prestige and position and spoiling of total service career of the applicant for no fault on his part amounting to Rs. 3 Lacs or as may deem fit and proper under the facts and circumstances of the case.

(h) The Tribunal may graciously be pleased to award cost of the application and legal expenses in favour of the applicant.

(i) The Tribunal may graciously be pleased to pass any other order or direction as may deem fit and proper under the facts and circumstances of the case in favour of the applicant.

2. It is submitted by the learned counsel that while the disciplinary proceeding was pending, the applicant was considered for promotion but the D.P.C adopted sealed cover procedure and therefore, submits the counsel, after the judgment of the Tribunal, the sealed cover should be opened and acted upon. It is further submitted by the learned counsel for the applicant that the applicant has preferred representation dated 30.10.2003 for grant of reliefs in terms of direction given by the Tribunal.

3. Sri A.K. Gaur, learned counsel for the respondents on the other hand submits that in view of the order passed by the Tribunal for payment of financial loss the applicant is not entitled to promotion nor is he entitled to file fresh O.A.

4. We have considered the submissions made across the Bar. A perusal of the order dated 14.01.2004 (annexure- 12) would indicate that the applicant's pensionary benefits has been revised on the basis of the order passed by the Tribunal in O.A No. 447/96 aforesaid. A perusal of another order dated 19.02.2004 (Annexure- 13) would also indicate that the applicant was already informed vide letter dated 14.01.2004

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regarding his arrears and other dues. These orders have not been challenged in the present O.A. Since the disciplinary proceeding ended in imposition of penalty, the findings in the sealed cover were not required to be acted upon. The applicant could have been considered for promotion in the usual course by the next D.P.C had he not retired in 1995.

5. However, having regard to the facts and circumstances of the case and to the submission that the applicant has not been paid full financial loss suffered by him as per the order passed by the Tribunal, we dispose of the O.A finally with direction to the competent authority to consider and decide the applicant's representation dated 30.10.2003 by means of a reasoned order to be passed and communicated to the applicant within four months.

6. There will be no order as to costs.

Dinesh
Member - A.

R.G.J
Vice-Chairman.

/Anand/