

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH ALLAHABAD

(This the 28 day of 8th 2009)

Present

Hon'ble Mr. A.K. Gaur, Member-J

Original Application No.1607 of 2005
(U/S 19, Administrative Tribunal Act, 1985)

Mani Ram Bhatt, S/o Shri Ram Raj Bhatt, Retired Mail Driver, R/o 78/6K, Bhawapur, Pushpanjali Nagar, Allahabad.
.....Applicant.

By Advocate : Shri Satish Mandhyan
Shri Ramendra Pratap Singh

V E R S U S

1. Union of India, through General Manager, West Central Railway (erstwhile Central Railway), Jabalpur.
2. Divisional Railway Manager, West Central Railway, Jabalpur.
3. Divisional Railway Manager (P)/Senior Divisional Personnel Officer, West Central Railway, Jabalpur.
4. Financial Adviser & Chief Accounts Officer (Pension), West Central Railway, Jabalpur.

.....Respondents

By Advocate : Shri Prashant Mathur

O R D E R

(Delivered by : Hon'ble Mr. A.K. Gaur, Member-J

The applicant through this O.A filed under section 19 of Administrative Tribunals Act, 1985 has prayed for a direction to the respondents to accord the pension and retrial benefits to him admissible to the post of Mail Driver by making suitable amendment in the P.P.O and making good the entire arrears of retrial benefits and pension alongwith 18% interest.

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2. The facts of the case, in brief, are that the applicant was appointed as Class-IV employee in 1958. He was promoted to the post of Second Fire Man and in 1964, he was promoted as First Fire Man. According to the applicant he was promoted to the post of Diesel Assistant in the year 1975 and thereafter, in 1979 he was promoted as Shunter and posted at Manikpur. In the year 1980 he was transferred to Satna in the same capacity and in the year 1984 he was promoted as Goods Driver on regular basis. The applicant was further promoted to the post of Passenger Driver in the year 1993 and thereafter, he was promoted as Mail Driver vide order dated 18.04.1997. The applicant retired on 30.04.1997 on attaining the age of superannuation.

3. The grievance of the applicant is that after retirement the applicant has been issued certificate showing retired from the post of Passenger Driver whereas the applicant was promoted as Mail Driver vide order dated 18.04.1997. Aggrieved the applicant preferred representation dated 30.04.1997(Annexure A-4 of the OA). Learned counsel for the applicant further submitted that the respondents vide letter dated 17.07.2001 acknowledged the claim of the applicant on the pay fixation on promotion in terms of recommendations of 5th Pay Commission as Mail Driver/Annexure A-5. Thereafter, the applicant represented the respondents repeatedly but they slept over the matter and finally vide order dated 12.07.2004 they issued revision of pension enhancing Rs. 1/- in the pension and payment of a very meager amount towards revised D.C.R.G. Learned counsel for the applicant further argued that the applicant has been entrusted with the work of Driver on Mail Trains for more than one year before he was promoted as Mail Driver. Learned counsel for the applicant further argued that all those who have retired

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as Mail Driver, their pension has been fixed in pay scale Rs.6000-175-9600 whereas the respondents fixed the pension of the applicant treating him to be Passenger Driver in illegal manner.

4. On notice the respondents filed counter affidavit raising preliminary objection with regard to the limitation. Learned counsel for the respondents submitted that the claim of the applicant in the present O.A. is inordinately time barred as the applicant has already being superannuated on 30.04.1997 and had been paid all his retiral benefits. On the contrary the applicant has filed the present O.A. on 19.12.2005 that is after more than 8 years of his retirement and for which no explanation has been offered.

5. Learned counsel for the respondents further argued that the applicant was promoted as Mail Driver on 18.04.1997 and was required to complete certain requisite training but before completion of such training he was superannuated on 30.04.1997 and he worked only for Six days in Higher Grade. However, the pay of the applicant was fixed at Rs.7520/- as Mail Driver in the Grade Rs.6000-175-9600 but so far as the revision of pension is concerned, as per rules, the same is calculated on the average of last pay drawn by the applicant. Learned counsel for the respondents submitted that while working as Senior Passenger Driver since ^{the applicant} acquired sufficient foot plating experience, therefore, in the exigencies of service his services were utilized as Driver on Mail/ Express Train and the regular promotion depends upon the availability of regular vacancy, seniority and suitability of the individual.

6. The applicant has filed Rejoinder Affidavit reiterating the averments made in the O.A and nothing new has been added therein.

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The applicant has also filed Suppl. Affidavit annexing therewith the photocopy of Circular dated 05.10.2000. Learned counsel for the respondents on the other hand filed Written Arguments.

7. I have heard learned counsel for both sides and perused the pleadings advanced by the either sides as well as the Written Arguments submitted by the learned counsel for the respondents.

8. Learned counsel for the respondents argued that the applicant was working as Passenger Driver on adhoc basis in pay scale Rs. 1600-2660 and had been promoted as Mail Driver vide order dated 18.04.1997 in pay scale Rs. 1640-2900 and was superannuated on 30.04.1997. The applicant resumed the charge of Mail Driver at Jabalpur on 25.04.1997, therefore, he actually worked as Mail Driver only for six days. It is also argued by the learned counsel for the respondents that the pay of the applicant was fixed at Rs. 7520/- as Mail Driver in the pay scale Rs. 6000-175-9000 w.e.f. 25.04.1997. According to the learned counsel for the respondents, since the applicant after assuming as Mail Driver on 25.04.1997 has been superannuated on 30.04.1997 and only on the basis of last 10 months average pay drawn by the applicant, his pension has been fixed in the respective grade and all benefits admissible under the rules have already been give to the applicant.

9. On the other hand learned counsel for the applicant invited my attention to the Circular dated 05.10.2000/Annexure SA-I and submitted that the applicant is entitled for retiral benefits as is admissible to the post of Mail Driver and his pension is also liable to be fixed accordingly.

10. Para 2 of the Circular dated 05.10.2000 is being reproduced herein under: -

"It is clarified that the Railway servants who are detailed to look after the duties of higher posts on adhoc basis, are not

given the scales of pay of the higher posts. This is so because they are either not due for regular promotion to the higher posts as per recruitment rules or are not duly selected for appointment to the posts with the formal approval of the competent authority after following the prescribed procedure. This is purely an interim administrative arrangement pending appointment of regular incumbents to the posts. Such Railway servants continue to draw pay and increments in the scales of pay to which they are borne substantively. In addition, they are granted charge allowance at the prescribed rates, as a compensation for performing duties of higher posts but it is not intended to be lieu of higher scales of pay. On their retirement/death while in service, pensionary benefits are determined on the basis of emoluments drawn in the scale of pay held by them substantively through the charge allowance is also taken into account for the purpose."

11. In the present case, the pay of the applicant on his promotion to the post of Mail Driver was fixed at Rs. 7520/- in the pay scale of Rs. 6000-9000. However the applicant worked as Mail Driver only for 6 days and has been superannuated on 30.04.1997 even without completing certain requisite training. So far as the fixation of pension of the applicant in the grade of Passenger Driver is concerned, as per rules, the final pension/settlement dues are to be paid to the applicant on the basis of average of 10 months last pay drawn. Therefore, the circular dated 05.10.2000 (referred to above) is not applicable in the present case.

12. In view of the observations made above, I do not find any merit in the O.A. It is accordingly dismissed.

13. There will be no order as to costs.


MEMBER-J.

/Anand/