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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration O.A.NO. 71 of 1988

S.N.Sharma

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Applicant

Vs.

Union of India & Others

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed in Indian Railway and was confirmed as PNL since 12.9.64 and was ordered to officiate as Loco Fuel Inspector in Scale of Rs. 370-475. It may be clarified that applicant was an officiating hand and he was not selected as Loco Fuel Inspector and ultimately he had to go back to power group as there was no vacancy of Loco Instructor in safety Camp Gonda. Therefore he was posted as Loco Fuel Inspector. The Third Pay Commission recommended the pay revision and PNL was placed in the scale of Rs. 700-900/- where as Loco Fuel Inspector was placed in scale Rs. 550-750/-. The applicant who was a confirmed CPNL and he was to be fixed in pay scale of Rs. 700-900/- but he was fixed in pay scale of Loco Fuel Inspector in the scale of Rs. 550-750/-. and the applicant was retired on 31.12.1974. The applicant made representation after which has been representation for the loss/suffered by him and failing to get any relief from the department he has approached the Tribunal.

2. The applicant made representations starting from the year 1973 upto 1985 but the department never cared to give any reply to any representation. Thereafter the applicant approached this Tribunal in the year 1988.

3. The respondents have resisted the claim of the applicant and have stated that the post of PNL and Loco Fuel Inspector both were of equivalent grade of Rs. 370-475 (AS)

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having the same seniority unit and were filled according to same channel of promotion. The applicant was promoted as PNL grade Rs. 370-475(AS) and posted at Gonda on 11.9.63 and then he was posted as Loco Fuel Inspector in the same grade and pay on 24.6.65, and since then the applicant was working as Loco Fuel Inspector, and as he did not worked on the said post that is why the benefit of the other post could not have been given to him. It is further stated that the pay of the applicant was fixed with effect from 1.1.73 in the said higher grade but without benefit of the arrears as per Railway Board's Instructions. In view of the fact that the applicant did not worked against the said post. Learned counsel for the respondents made reference to the Supreme Court's decision decided by 7 judges the applicant was not entitled to get the ^{benefit of representation} limitation as the first representation was filed in the year 1985. It seems that the case was not ~~been~~ thoroughly looked in ^{to} ~~this case~~ in which the first representation was given and in this context it was observed that of course merely because the party goes on filing a representation after representations the party is not entitled to ^{avoid} the limitation. In this case if the contention has been allowed this contention would have prevailed. The learned counsel next contention is that the applicant did not ^{showed higher} ~~shows any~~ responsibility to the said ^{grade} ~~post~~. As a matter of fact the applicant was confirmed as CPNL and and it is the department which asked him to shoulder the responsibility of the other post, which till the Pay Commission was placed in same grade. The Pay Commission discriminated between these posts, and the post on which the applicant did not worked ^{by} ~~voluntarily~~ but was asked to work by the department was placed in lower scale. The applicant was a confirmed CPNL/PNL he was entitled to the said scale from the very beginning notwithstanding with the fact that the employer has a right to take any work from him. The scale which was recommended by the

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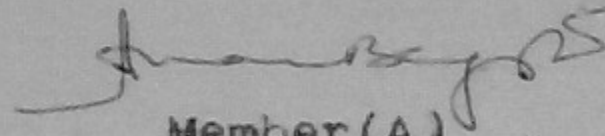
Pay Commission was in respect of the post of CPNL/PNL and as such the applicant rightly claimed salary for the said post on which he was a confirmed employee merely because he was asked to officiate on a particular post for a year^s that would not mean he ~~ceased~~^{had} to take the post on which he was confirmed or his cadre anyhow changed. Learned counsel in between pointed out that reference be made to the case of Palru Ram Krishna ~~case~~ although it was ~~to point out earlier~~^{not}. We are ~~hereby~~ making the case of Palru Ram Krishan which without specific mention was considered and in case of Union of India Vs. Janaki Raman 1991 Judgment today, paragraph 25. The paragraph 25 reads as here under:

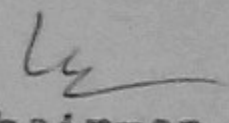
"We are not much impressed by the contentions advanced on behalf of the authorities. The normal rule of "No work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his own reasons, although the work is offered to him. It is for this reason that R.R. 17(1) will also be inapplicable to such cases."

Practically the same position arises here with in this case the applicant did not volunteered himself to work on a particular post and he was asked by the department and an employee cannot disobey the directions given by the department notwithstanding the fact that he was permanent holder of a particular post he has to work on some other posts. As such the case of Palru Rama Krishna will not apply in this case and the case of Janaki Raman referred to above will apply on all ~~post~~^{posts} with the facts of this case. Accordingly this application is allowed and the respondents are directed to pay the applicant the pay scale ^{cjs 700-900} with effect

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from 1.1.1973 and declared the arrears within a period of three months. The application is allowed in the above terms. No order as to costs.


Member (A)


Vice-Chairman.

27th November, 1991, Alld.

(sph)