OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 3rd day of April, 2001.

CORAM:-

Hon'ble Mr. SKI Naqvi, J.M.

I. Original Application No.946 of 1993.

Chandra Shekher Chaudhary
S/o Jageshwar Chaudhary,
R/o Mohalla North Humayunpur,
Districtpur.

(SriRakesh Verma, Advocate) . . . . . .Applicant

Versus

1. Union of India through Secretary,
Ministry of Railway, New Delhi.

2. F.A.&C.A.O. (B.G./Con.) N.E. Railway,Gorakhpur.

3. Chief Railway Officer, B.G. Construction,
N.E. Railway, Gorakhpur.

4. G.M.(P) N.E.R. Gorakhpur.

(Sri Lalji Sinha, Advocate) . . . . . .Respondents

A N D

II. Original Application No.1294 of 1992.

Chandra Shekhar Chaudhary,

S/o Jageshwar Chaudhary,

Resident of Village & Post-Gorakhpur

Distt-Basti (U.P.)

(Sri Rakesh Verma, Advocate)

. . . . Applicant

Versus

1. The Union of India
Through General Manager,
North Eastern Railway,Gorakhpur.

2. The F.A.&C.A.O.(B.G./CON)
N.E.Railway, Gorakhpur.

3. Chief Administrative Officer,
(BG Construction)
N.E. Railway, Gorakhpur.

(Sri Lalji Sinha, Advocate)

. . . . Respondents

10

A

A

O R D E R (O r a l)

By Hon'ble Mr. SKI Naqvi, J.M.

In response to request from Nigerian Railway Corporation, 12 officers were sponsored for secondment to that Corporation in the grade level indicated against each. The applicant is at Ser. No.5 and his grade level has been mentioned as 12. After due formalities the applicant was relieved to proceed on 14-10-1980 and joined at Nigeria on 19-10-1980. The secondment for deputation contract expired on 14-10-1985 but on the move by the Nigerian Government and the circumstances as prevailed there, the applicant was relieved in July, 1987 and assumed his duties in N.E.R. Gorakhpur on 16-7-1987, as Dy. Chief Engineer Constructions, Broad Gauge, Gorakhpur. On superannuation he retired on 31-8-1991 and his substantive pension was fixed at Rs.4950/-. It was by the order dated 4-3-1992 (Annexure-A-1) that his period at Nigeria from 14-10-1985 till date of assumption (15-7-1987) was held as period 'dies-non' and consequent thereupon another order dated 24-3-1992 (Annexure-A-2) was passed wherein this position of dies non has been explained. Page 3 dated 30-4-1992 is an order by which the pension (tentative as per respondents' case) was refixed at Rs.4650/- instead of Rs.4950/-. Being aggrieved of this position the applicant filed the OA No.1294/1992 seeking relief to the effect that the respondents be directed to fix the pension of the applicant and also other retiral benefits based on last pay as Rs.4950/- per month and not Rs.4650/- and to give the consequential benefits including refund of recovered amount of gratuity to the tune of Rs.33,425/-. The applicant has also filed OA No.946/1993 impugning the orders dated 4-2-1992, 24-3-1992 and 20-4-1992 as Annexures-A1, A-2 and A-3 to the 1993 OA

through the /which period from 14-10-1985 till 15-7-1987 has been held to be as dies non and the pension has been fixed accordingly.

2. The respondents have contested the case, filed the counter reply with the mention that the period of secondment /deputation expired on 14-10-1985 but the applicant assumed in India on ~~15-7-1985~~ 15-7-1987 and but for this period the applicant was wrongly allowed increments, which as per secondment contract, were allowed to him at Nigeria and in view of the fact that for the same period he got two increments in his salary the increments allowed for the period from 14-10-1985 to 15-7-1987 was withdrawn and pension was refixed as per the impugned order taking that period as dies non.

3. Heard learned counsel for the parties and perused the record.

4. The main grievance of the applicant is that the impugned orders which are detrimental to the interest of the applicant, were passed without giving him opportunity of being heard and ~~shall be~~ therefore in violation of the principles of natural justice as acknowledged and approved under similar circumstancesin Bhagwan Shukla Vs. UOI & Ors, 1994 SCC (L&S) 1320. Sri Lalji Sinha, counsel for the respondents mentioned in his reply that it is not a case where the order has been passed to the detriment to the interest of the applicant but it is only an order to finalise the pension of the applicant which was allowed tentatively. Since the OA No. 946/1993 and OA No.1294/1992 are based on a similar set of facts and the reliefs sought are also dependent to each other, both were considered and are being decided by the single order.

5. With the above position, I find that as per the

-12-

principles of natural justice, the impugned order (Annexure-A-3) should have been passed after giving opportunity of being heard to the applicant and that can now be done. Therefore, the competent authority in the respondents' establishment is directed to reconsider the impugned matter and pass a fresh order after giving an opportunity of being heard to the applicant by issuing a show cause notice.

6. OA No.1294/1992 and OA No.946/1993 are decided accordingly with no order as to costs.