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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No. 524 of 1994

Dated: 3rd January, 1995.

Hari Prasad Gupta, son of late Sri
Ram Lal Gupta, R/o South Betiya Hata, District
Gorakhpur ... Applicant.

(By Advocate Sri Anil Kumar)

Versus

1. Union of India, through the
Director Postal Services, Gorakhpur
Region District Gorakhpur.
2. The Sr. Supdt of R.M.S.'G' Division,
Gorakhpur.
3. Head Record Officer, R.M.S.'G' Division,
Gorakhpur ... Respondents.

(By Advocate Sri C.S. Singh)

O r d e r

(By Hon. Mr. S. Das Gupta, Member(A))

The reliefs sought in this application are that a direction be issued to the respondent no. 3 to fix the applicant's pay and increment and accordingly pay all arrears in accordance with the order dated 9.3.1990 (Annexure- A 1) and order dated 8.3.1991 (Annexure- A 2). A further prayer is that all the dues be paid to the applicant with 18% interest.

2. The applicant was initially appointed as ~~Shor~~ter in R.M.S. in the year 1963. He was later posted as Accountant after qualifying

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P.O./RMS Accounts Examination. The applicant was suspended by an order dated 14.8.1981 and disciplinary proceedings were initiated. On completion of the disciplinary proceedings, a penalty of removal from service was imposed on him by an order dated 21.8.1986. The applicant preferred an appeal against the order of removal from service and the appellate authority by its order dated 13.3.1987 moderated the penalty to that of censure. The applicant was reinstated in service by the order dated 31.8.1987 in compliance with the appellate order dated 13.3.1987. Thereafter, on 25.1.1988, the respondent no.2 issued a show cause notice to the applicant proposing to treat the period of suspension as period not spent on duty and to restrict the pay and allowances for that period to the subsistence allowance already paid to him. The applicant submitted a representation against the said proposal and the same was ultimately disposed of by an order dated 9.3.1990 (Annexure- A 1) passed by the Director Postal Services Gorakhpur Division in which it was ordered that the period of suspension from 14.8.1981 to 13.9.1985 shall be treated as duty for the purpose of pension only restricting the pay and allowances for the said period to subsistence allowance already paid, whereas, the period from 14.9.1985 to 31.8.1987 was to be treated as on duty for all purposes. The applicant has alleged that

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on receipt of the said order dated 9.3.1990, he personally met and requested the respondent Nos. 2 & 3 for implementing the same but it is alleged that they have not taken any action to comply with the same. He is stated to have further represented to the respondent Nos. 2 & 3 for fixation of his pay on joining his duty by allowing increment falling due during the period from 14.8.1981 to 13.9.1985 and the respondent no. 2, it is stated, considered the applicant's grievance and passed an order dated 8.3.1991 (Annexure- A 2) by which he had clarified that the pay of the applicant should be fixed on 14.9.1985 taking into account the pending increments for the period from 14.8.1981 to 13.9.1985. The applicant has alleged that despite the clear direction of the Director Postal Services, Gorakhpur by the order dated 9.3.1990 and also the clarification issued by the order dated 8.3.1991, the respondent no. 3 has not taken any action to implement the said order. As all efforts made by the applicant to get reliefs from the respondents failed, he was forced to file the present application before the Tribunal.

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3. The basic facts in this case are not in dispute. The respondents have submitted in their counter reply that the appellate authority have decided by its order dated 9.3.1990 that the period from 14.8.1981 to 13.9.1985 shall be treated as on duty for the purpose of pension only and that the pay and allowances for this period shall be restricted to subsistence allowance already paid to him. They have averred that in view of this order, the said period shall not count towards increment or for any other purpose other than pension only as the period of qualifying service.

4. The applicant has filed a rejoinder affidavit reiterating the contentions made in the O.A.

5. We have heard the learned counsel for both the parties and have gone through the pleadings of the case.

6. The short point to be considered in this case is as to whether the period from 14.8.1981 to 13.9.1985 shall be taken into account for the purpose of granting increment and consequential arrears of pay to the applicant. We are of the view that the order of the appellate authority at para. 4 of the order dated 9.3.1990 is quite unambiguous in this regard. The order clearly states that this period shall be treated as on duty for

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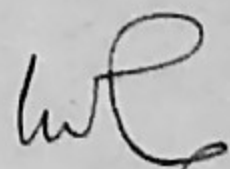
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the purpose of pension only and that the pay and allowances for the said period shall be restricted to the subsistence allowance already paid. It is abundantly clear from this order that the said period will only be added to the total qualifying period of service for the purpose of working out the quantum of pension and not for any other purpose. If we are to accept the applicant's plea that the increment during this period should be granted as the denial thereof, ^{would have} ~~whatever~~, the adverse effect on his pension, by the extension of this logic, we must also accept the contention that any promotion which was due during this period should be granted to the applicant and his pay be refixed accordingly and thus, we would reach ~~on~~ an absurd conclusion. We are, therefore, firmly of the view that the period in question shall count towards qualifying service for pension and nothing else and that the respondents are fully justified in not granting increment due during this period.

7. The application is devoid of merits and is, therefore, dismissed. There will be no order as to costs.

~~Member (A)~~


Member (A)

(n.u.)