

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 7TH DAY OF FEBRUARY 2002

Original Application No. 737 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Nirankar Nath Agarwal, son of
Late Shri K.B.L. Agarwal, R/o C-371
Rajendra Nagar, Bareilly.

... Applicant

(By Adv: Shri Arvind Kumar)

versus

1. Union of India through the
General manager, North
Eastern Railway, Gorakhpur.
2. Divisional railway Manager
North Eastern Railway,
Izat Nagar.
3. Divisional Railway manager
North Eastern Railway, Samastipur (Bihar)

... Respondents

(By Adv: shri J.N.Singh)

O R D E R (Oral)


JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has
prayed for a direction to the respondents to absorb the
applicant in the grade of Rs 840-1040(RSD) (2375-3500)
w.e.f October 1986 in pursuance of order dated 10.3.1987.

The facts in short giving rise to this application
are that applicant was serving as Driver Grade 'A' in the
scale of Rs 700-900. The applicant was medically
decategorised on 26.6.1986. According to medical report
his category was reduced from A1 to AIII, the question
came for absorption of applicant in suitable post. The
Divisional Standing Committee considered the case of the
applicant and recommended him for being posted as Loco
Inspector in the grade of Rs840-1040. This was approved
by General Manager, North Eastern Railway.


The grievance of the applicant is that though he was approved for the scale of Rs 840-1040 by order dated 10.3.1987 he was not paid salary in this scale till an order was passed on 22.1.1991 (Annexure 8). The applicant retired from service on 31.3.1992 at the basic pay of Rs 3450/-. The applicant has submitted that as the correct scale was not given to the applicant he had suffered substantial monetary loss in salary including pension. The applicant has prayed that respondents may be directed to pay the scale from October 1986.

Resisting the claim of the applicant counter affidavit has been filed wherein it has been stated that as the Loco Inspector was a Headquarter control post therefore the papers were sent to Headquarter, Gorakhpur for approval of absorption of the applicant as Loco Inspector in the scale of pay Rs 840-1040. As the approval could not ^{be} received earlier the applicant made a request ^{for early action}. On the request of the applicant Railway Administration absorbed him as power controller in the scale of Rs 700-900 provisionally vide order dated 9.10.1986. The applicant joined the post on 16.10.1986. It has been further stated that Headquarter considered the case of the applicant and confirmed that he should be engaged as Loco Inspector in pay scale of Rs 700-900 vide order dated 14.4.1987. A copy of the letter has been filed as (Annexure 1 to the counter reply). On the basis of this letter it has been said that the applicant has rightly ^{been} paid in the scale of Rs 700-900 and the claim is not admissible. It is further submitted that the applicant was promoted as Loco Inspector in the pay scale of Rs 2375-3500 vide letter dated 22.1.1991 and was transferred to Samastipur division where he joined on 23.1.1991 and retired in the same scale on 1.3.1992. It

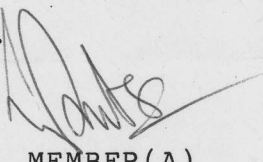


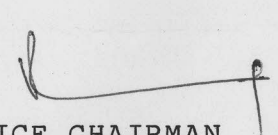
is contended that applicant has not suffered any loss as he retired from the scale^u for which he has claimed in the OA.

We have considered the submissions of the learned counsel for the parties. It is not disputed that the Divisional Standing Committee approved the applicant for absorption as Loco Inspector in the scale of Rs 840-1040 and the recommendation of the Committee was accepted by General Manager on 10.3.1987. The order dated 14.4.1987 has been set up by respondents in counter reply but existence of this letter is not found mentioned^u in any of the correspondence available on record. It is also not found from the order dated 14.4.1987 itself, that this order was passed after giving opportunity to the applicant. The order thus can be termed as violative of principles of natural justice and may be termed as void. However, as the applicant has not claimed in his amendment application and affidavit filed, that this order was never communicated to him and he has no knowledge of this order, it is difficult for this Tribunal to come to a definite conclusion as to whether the order was passed in violation of principles of natural justice. In our opinion, the ends of justice will be served if this matter is sent back to the respondents for passing a fresh order as to whether the scale of applicant initially granted as 840-1040 was legally and correctly reduced to 700-900 and what were the reasons for the same. They will also ensure as to whether the order was passed after observing the principles of natural justice as under the order dated 10.3.1987 applicant had joined as Loco Inspector and he was entitled to get the scale referred therein.



For the reasons stated above, we dispose of this OA with the direction to General Manager North Eastern Railway, Gorakhpur to consider this matter again/with the angle suggested above and in case the order dated 14.4.1987 was passed without giving any opportunity of hearing to the applicant, this order shall be treated as nullity. The General Manager in such situation shall serve a show cause notice on the applicant if he so desires as to why his pay scale may not be reduced from 840-1040 to Rs 700-900. The order ~~then~~ thereafter shall be passed after hearing the applicant and shall be a reasoned order. In case the General Manager does not desire to pass any fresh order the applicant shall be entitled for payments on the basis of the scale 840-1040 from 10th March onward till 22.1.1991. The salary of the applicant shall be refixed on the basis of the same from 23.1.1991 onward till his retirement on 31.3.1992. The pension shall also be revised and refixed accordingly. The amount payable under this order shall be paid to the applicant within a period of six months from the date the order is passed by the General Manager. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 7th Feb: 2002

Uv/