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IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. /348/90
T.A. No.

DATE OF DECISION 04/10/1993

Shri Jagmohan Singh Ahluwalia Petitioner

Mr. D. R. Chaudhary Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr. B. R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R. C. Bhatt : Member (J)

The Hon'ble Mr. M. R. Kolhatkar : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(9)

Shri Jagmohan Singh Anluwalia,
Hindu, Adult, Occ:Service,
Residing at Rajkot,
5-B Type-III,
Loco Colony,
Jamnagar Road,
RAJKOT

:: APPLICANT ::

Advocate : Mr.D.R.Chaudhary

VERSUS

1. Union of India, through
Its General Manager,
Western Railway,
Churchgate,
BOMBAY

2. The Divisional Railway Manager,
Western Railway,
Kothi Compound,
RAJKOT

:: RESPONDENTS ::

Advocate : Mr.B.R.Kyada

ORAL JUDGEMENT

O.A. 348/90

Date: 04/10/1993

Per : Hon'ble Shri M.R.Kolhatkar,

Member (A).

This is an original application under section 19 of the Administrative Tribunals Act. The applicant who is working as Junior Fuel Inspector at Sabarmati has made this application mainly to get the benefit of stepping up of his pay on the basis of his ~~as~~ junior having got the benefit of higher pay fixation. The reliefs prayed by the applicant as below:-

(a) It may be declared that the order and/or decision of respondents in terms of letter No.EL/J/69 dated 15.4.1988 and dated 30.8.1988 of respondent no.2. refusing the removal of anomaly in fixation of petitioners pay in the

the grade of Rs.2000-3200(RP'86) is illegal, ineffective null and void, and the applicant is entitle for the benefit of removal of anomaly in his fixation of pay under revised pay 1986 by stepping up at Rs.3200/-pm. as on 21.7.1986 the date from which junior Shri R.B.Sharma, Loco Inspector has been fixed to draw Rs.3200/-pm. of the basic pay in the scale of Rs.2000-3200(RP).

- (b) The respondents may please be directed to stepping up the basic pay of the applicant at Rs.3200-p.m. with effect from 21-7-1986 in the grade of 2000-3200(RP) and pay him the differential emoluments forthwith 12% interest per annum on the arrears of difference of pay.
- (c) Any other relief or reliefs which the Hon'ble Tribunal may deem just and proper may also be granted alongwith the cost of this petition.

2. The applicant's request for giving him the benefit of the stepping up of pay vis-a-vis his juniors was rejected by respondent no.2 , on 15/4/1988 vide Annexure A-7.

The application which was filed on 16/4/1990, however, ~~relied~~ ^m relies in the main on Railway Board's circular No.E(P&A) II/19/ 59/121, dated 16.9.1988, Annexure A-15, in particular para (3)(a) ^{2(1) and m} thereof reproduced below:-

3 (a) "The stepping up of pay will be allowed to running staff only appointed as loco running supervisors in whose cases 30% of basis pay is taken as pay element in the running allowances. The stepping up of pay will not be admissible to the non- running staff of Mech.Deptt. appointed as running Supervisors as in their cases the question of pay element in the running allowance does not arise."

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Thus, at the time negative reply was given to him viz. 15.4.1988, the circular in question viz. circular dated 16.9.1988, on which the applicant relies was not in existence. Unfortunately, although the applicant's application not only quotes in full this circular in full vide para 4 (xvi) ^{and also} enclosing a copy thereof at Annexure A-15. The respondents in their reply filed on 18.6.1992, have not taken note of the same, vide para 14, which reads as below:-

"With reference to Board's letter dated 16.2.1985, the same is not applicable to the present case." It is thus clear that the crucial circular on which the applicant's case rests, has not at all been taken note of by the respondents. Since, the negative reply received by the applicant on 15.4.88 was prior to the issue of this particular circular which according to the applicant is beneficial to him. and since Railway Administration has not dealt with ^p and relied to the applicant's representation dated 04.3.1989 (Annexure A-17) which specifically refers to the circular dated 16.9.1988, any attempt on our part to interpret the terms of the circular from the point of view of its applicability to the instant individual case of the applicant may be premature. It is just and proper that the Railway Administration is given an opportunity of considering whether the circular dated 16.9.1988 applies to the applicant's case and whether

and how he should be given the benefit of the stepping up in terms of the circular.

3. After hearing the learned advocates for both the parties, we are, therefore, of the view that this application can be disposed of by issue of appropriate directions to the Railway Administration. We, therefore, pass the following order.

ORDER

1. The applicant may within a fort-night of the receipt of this order make a self contained representation to respondent no.1 through respondent no.2 for grant of benefit of stepping up in terms of Railway Board's circular dated 16.09.1988, (Annexure-A/15) and the respondent no.1, should pass a speaking order within two months of the date of receipt of representation and arrange to communicate the same to the applicant.

2. In order to preclude avoidable litigation, following conditional direction is also given :

If respondent no.1 holds that the applicant is entitled to the benefit of stepping up from the date specified in

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Railway Board's circular dated 16.9.1988, respondent should also simultaneously, pass orders regarding consequential benefits viz.

(a) Payment of arrears from the applicable date till the date of issue of orders.

(b) Further pay fixation, if the applicant is entitled thereto.

(c) Respondent no.1 may also consider grant of interest ^{on arrears} at the rate of 12 % as requested by applicant from the date of application to this Tribunal, viz., 24.04.1990.

If the respondent no.1 decides against grant of interest or fixes some other rate of interest, he should give reasons for the same.

(3) If the applicant feels aggrieved by the order referred to at Sr.No.1 above subject to Sr.No.2, it is open to him to approach this Tribunal within a fortnight of the receipt of the speaking order passed by respondent no.1.

The application is disposed of accordingly.

No order as to costs.

Recd
(R.C.Bhatt)
Member (J)
04.10.1993.

M.R.Kolhatkar
(M.R.Kolhatkar)
Member (A)
04.10.1993.