

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AHMEDABAD

RA/14/2000 in OA/367/92

Ahmedabad, this the 22nd day of Feb. 2001

Hon'ble Mr. V. Ramakrishnan, Vice Chairman
Hon'ble Mr. A.S. Sanghavi, Member (J)

Mr. R.S. Saharan
C/o. Executive Engineer (Central)
Constn.
Western Railway
Ahmedabad. Applicant
Advocate: Mr. P.H. Pathak
Versus

1. Union of India, through the
General Manager, W.Rly. HQ
Church gate, Mumbai.
 2. The Chief Engineer
W.Rly., HQ Office
Church Gate, Mumbai.
 3. The Chief Engineer (Survey & Constn)
W.Rly., Church gate Mumbai.
 4. The Chief Engineer (Survey & Constn.)
W.Rly., Ahmedabad.
- Respondents

Advocate: --

ORDER

IN

BY CIRCULATION RA/14/2001
in
OA/367/92

Hon'ble Mr. V. Ramakrishnan, Vice Chairman:

The Review Applicant is the original
applicant in O.A./367/92 where he had claimed

for stepping up of pay as an Inspector of Works Kota Division on par with one Shri Uprit who is his junior. The Tribunal after detailed consideration rejected the claim by its order dated 10.1.2000 holding that he does not fulfil the conditions for stepping up of pay. This order of the Tribunal is dated 10.1.2000 and normally the copy of the judgement should have reached the advocate for the applicant soon thereafter. The Review Applicant has however filed the R.A. only in September 2000 and it was under objection for quite some time. An M.A. for condonation of delay has been filed which continues to be under objection as it is bearing only stamp number (MAST/575 of 2000). In this M.A. it is submitted that the applicant himself received copy of judgement only on 24.8.2000 as there was mix up between him and his advocate. It does not say that it was not received in time by his advocate. The reason given for condonation of delay is not satisfactory.

2. Even on merits, the Review Application lacks substance. The Review Applicant has contended that the Tribunal had assumed that Uprit was in a different seniority unit as compared to the applicant and that the

applicant belongs to the Jaipur Division which is not correct. He says that the applicant ^{Uprit} ~~has also confirmed that he belongs~~ to Kota Division.

3. In para 9 of the judgement the Tribunal had inter alia observed as follows:-

" It is also seen that promotions upto Grade II level is done at divisional level and Mr. Uprit was promoted on ad-hoc at divisional level and Mr. Uprit was promoted on ad-hoc basis by the Kota Division on 26.10.81 and the applicant was promoted by the Survey and Construction Division on 1.8.84. In the circumstances, Shri Uprit was receiving higher pay in his grade at the time of his promotion to Gr.I level on 30.11.89. As the applicant does not belong to Kota division, he cannot compare his case with that of Shri Uprit. One of the conditions prescribed for stepping up of pay is that both the juniors and seniors belong to the same cadre when the promotion of the juniors were ordered. The applicant has not fulfilled this condition".

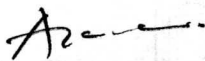
The intention of the Tribunal was that ad-hoc promotion was given by different units and at the relevant time while one was in the Kota division and the other was in Survey and Construction Division. That apart the Tribunal has specifically referred to the fact that ad hoc promotion was given to Uprit earlier which had led to his drawing higher pay in that grade at the time of his promotion to Grade-I level. The increased pay drawn by junior due to ad hoc service rendered in the higher post

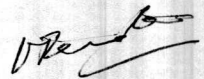
in earlier periods is not a ground for stepping up of the pay of the senior as brought out in the a Government Circular dated 4.11.1993. This is also referred to by the Supreme Court in the case of Union of India vs. R. Swaminathan and others 1997 SCC (L & S) 1852 where the Hon'ble Supreme Court has interalia observed that:-

" The increased pay drawn by a junior because of ad hoc officiating or regular service rendered by him in the higher post for periods earlier than the senior is not an anomaly because pay does not depend on seniority alone nor is seniority alone a criterion for stepping up of pay."

4. As such, even if the applicant submits that he and Uprit belong to the same seniority ~~unit~~ ^{unit} he still has no right to get his pay stepped up.

5. Review Application is rejected.


(A.S. Sanghavi)
Member (J)


(V. Ramakrishnan)
Vice Chairman

pmr