

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.R.A.12 of 2000
arising out of
O.A.No.642/1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

SUBODH KUMAR NAG

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. B.P. Saha, counsel

For the respondents : Mr. P.K. Arora, counsel for E. Rly.
Mrs. U. Bhattacharya, counsel for Metro Rly.

(Present at the time of hearing of O.A.)

DISPOSED OF BY CIRCULATION

Date of Order : 20/10/2000

ORDER

D. Purkayastha, J.M.

This review application has been filed by the applicant of O.A.No.642 of 1996 praying for review and recall of the order dated 20.4.2000 dismissing the aforesaid O.A.

2. The applicant was originally an employee of the Eastern Railway and was sent on deputation to the Metro Railway retaining his lien in the Eastern Railway. He filed O.A.No.515 of 1991 in which he made a grievance that his junior Sri B.C. Acharjee who was working in the Eastern Railway, got promotion to the post of Senior Draftsman w.e.f. 22.8.89 and thereafter to the next higher post of Head Draftsman w.e.f.

1.3.93.

3. The grievance of the applicant was that although he was senior to Sri Acharjee and was holding his lien in his parent department in the Eastern Railway, he was not considered for such higher promotions. The said O.A. was decided in favour of the applicant and direction was given to the respondents Eastern Railways that the applicant be also given promotion to the post of Senior Draftsman and Head Draftsman from the same date when his junior, Sri B.C. Acharjee was so promoted. Subsequently, the respondents complied with the said order and by an order dated 18.9.95 he was promoted to the post of Senior Draftsman in scale of Rs.1400-2300/- and Head Draftsman in scale of Rs.1600-2660/- w.e.f. 22.8.89 and 1.3.99 respectively i.e. the dates from which his immediate junior, Sri B.C. Acharjee had been promoted to the said two posts and his pay was directed to be ^{fixed} accordingly with arrears.

4. Subsequently, the applicant filed another O.A. bearing No.642 of 1996 in which he submitted that his aforesaid junior was getting higher pay than him and he, therefore, prayed for stepping up of his pay with reference to his junior including interest at the rate of 16% per annum. The aforesaid O.A. was dismissed by this Tribunal by the order dated 20.4.2000 which is sought to be reviewed by this R.A. It was held in that order dated 20.4.2000 that the junior of the applicant had exercised option on his promotion to the post of Senior Draftsman and Head Draftsman which the applicant did not and therefore, there was pay anomaly. The applicant did not deny that he had not exercised such option and accordingly it was held that there was no merit in the aforesaid O.A. and the O.A. was dismissed. In the present review application, the applicant has stated that he was promoted to the post of Senior Draft and then to the post of Head Draftsman after a judgment had

been passed by this Tribunal in O.A.No.515 of 1991 by an order dated 18.9.95 with retrospective effect. Therefore, he did not get the opportunity to exercise his option. He also stated that the CPO's Circular on the basis of which his junior exercised such option i.e. Circular No.178/81 was not produced by the respondents at the time of hearing of the O.A.

5. We have considered the matter carefully. It is not denied by the applicant that he did not exercise option. His only point is that he did not know that his junior had exercised such option and only after knowing the same subsequently, he prayed for stepping up of his pay with reference to his junior. But this is not any error apparent in the face of the judgment and therefore, there is no ground for review of the said order. However, it is a fact that the applicant is getting lesser pay than his junior which is also admitted by the respondents. There is provision in the Fundamental Rules as also in the corresponding Railway Rules that when a person is promoted to the next higher post, he can exercise option for fixing his pay in the higher post directly w.e.f. the date of promotion or can defer fixation of his pay in the higher post after accrual of increment in his lower post. It appears that the junior to the applicant Sri Acharjee exercised such option and got his pay fixed at a higher stage. This benefit was not availed of by the applicant. According to him, he could not do so because his promotion was given by the same order only after a judgment passed by this Tribunal in O.A.No.515 of 1991. There is, therefore, a pay anomaly between the senior and the junior.

6. While we do not find any reason for review of our decision dated 20.4.2000, we are of the view that for the ends of justice it would be fair if the applicant is given

liberty to file a representation to his parent department through proper channel for allowing him to exercise option as per rules after condoning the delay so that his pay is brought at par with his junior. If such a representation is made, the competent authority shall consider the same sympathetically keeping in view that there should not be any pay anomaly between the senior and the junior.

7. Subject to the above observations, we dispose of the review application by way of circulation.

I agree

H. S. N. 30/10/2024
(D. PURKAYASTHA)
MEMBER(J)

G. S. Maingi
(G. S. MAINGI)
MEMBER(A)