

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.545 of 1996

Date of Order : 9.9.1996

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

GOPAL CHANDRA GAYEN

Vs.

UNION OF INDIA & ORS.
(S.E.RAILWAY)

For the applicant : Mr. H. Chakraborty, counsel.
Mr. K. M. Modak, counsel.

For the respondents: Mr. P. Chatterjee, counsel.

ORDER

D. Purkayastha, J. M.

In this application, the applicant has sought for a direction upon the respondents for fixation of his pay meant for R.R.Cook w.e.f. 1.7.1967 and for granting the benefit of the scale of R.R.Cook in terms of the scale of pay already settled.

2. According to the applicant, he made representation to the authorities on 14.12.1988 (annexure 'B' to the application), stating that he had been working as R.R.Cook, Rainagar (BDR Sec.) since 1967, yet his designation has been shown as Mess Cook and consequently, his pay fixation has not been done according to his original designation. In support of his statement, the applicant has enclosed one certificate issued by an officer of the South-Eastern Railway (annexure 'E' to the application), where it has been mentioned that the applicant was working as R.R.Cook, Rainagar, B.D.R.Sec., in the scale of Rs.800-1150/- with basic pay of Rs.1130/-. The applicant has also relied on the seniority list, a copy of which has been

annexed at annexure 'B' to the application. In the said seniority list which is of Optg. Department in BDR Unit, Adra Division, and which has been mentioned as on 31.12.1984, the applicant has been designated as R.R.Cook in the pay scale of Rs.210-270/-.. The applicant has also averred in his application that he should have been given the pay scale of Rs.1800-2400/- which is of R.R.Cook but he has been given a lower scale of pay.

3. It is found that the respondents disposed of the appeal of the applicant which he made on 14.12.1988 by passing an order on 9/13.1.1989 (annexure 'C' to the application), holding that the contents of the appeal dated 14.12.1988 made by the applicant for fixation of his pay as R.R.Cook has been examined by the competent authority, and it has been found that in the BB Railway, there is no such post as R.R.Cook. However his pay has been correctly fixed in the post of Mess Cook. Thereafter, the applicant made further representations to the authorities but he did not get any relief and then he has approached this Tribunal by filing this application for grant of the reliefs as stated above.

4. The respondents have filed a reply denying the claim of the applicant. The respondents state that the applicant was never appointed as R.R.Cook, as claimed by him but was appointed as Mess Cook in the scale of Rs.75-110/- u.s.f. 1.7.1967. They have stated that there is no scale of Rs.1800-2400/- prescribed for RR Cook/Mess Cook and, therefore, question of non-payment of the said scale does not arise. It has also been stated by the respondents that by the order dated 9/13.1.1989, the applicant has been informed that his pay has been correctly fixed. Hence this application is devoid of merit and liable to be dismissed.

5. We have heard the 1st counsel appearing for both sides. We have also gone through the application alongwith the annexures as also the reply.

6. It is found from annexure 'A' to the application that the applicant was appointed in the post of Cook with a pay scale

of Rs.75-110/-.. This appointment letter is dated 1.7.1967. It is found from the Indian Railway Establishment Manual, Vol.1 (revised edition), 1989, that there has been a post of Assistant Cook and Sr.Cook only at paragraph 134, as amended. It is found from the Establishment Serial No.248/89 dated 25.10.1989 at page 16 of the application that the post of Cook has been classified as Assistant Cooks in the scale of Rs.800-1150/-, Cooks in the scale of Rs.950-1500/-, Sr.Cooks in the scale of Rs.1200-1800/- and Head/Master Cooks in the scale of Rs.1320-2040/-.. It has also been mentioned in the said notification that the initial recruitment will be made by the authorities in the cadre of Assistant Cook and the post of Cook will be treated as a selection post. We find that the applicant has been appointed as a Cook and not as Mess Cook as per the appointment letter dated 1.7.1967 (annexure 'A' to the application) and subsequently in the seniority list at annexure 'B' he has been shown as R.R.Cook in the scale of Rs.210-270/-, but the respondent-authorities while disposing his appeal vide the order dated 9/13.1.1989 (annexure 'G' to the application), have mentioned that there is no post of R.R.Cook in the S.O.Railway. But we find there is a post of R.R.Cook even before 1984. It is found from the letter written by the Sr.Divisional Operating Superintendent, Adra, which is dated 26.12.1986 (annexure 'I' to the application), that the said officer wanted to know the delay in sending the O.T. Claim bill in respect of the applicant dating back to 1982-84 in the post of R.R.Cook. If the applicant has actually discharged the duties and responsibilities of the post of R.R.Cook, there is no justification on the part of the respondent-authorities to deny him the scale of pay of R.R.Cook. However it is not clear whether the applicant has been discharging the duties of R.R.Cook in the department though it is found from the duty roster that the applicant has been performing the duties of R.R.Cook, as embodied in annexure-F to the application. Therefore there is reasonable grievance on the part of the applicant regarding performance of his

duties in the scale of pay, as claimed by him in the application. In view of the aforesaid circumstances, we think this is a fit case for giving a direction to the respondents to consider the grievances of the applicant and dispose of his representation.

7. We accordingly dispose of this application by directing the respondents, especially the respondent no.4, the Divisional Railway Personnel Manager, S.E.Railway, Adra, to dispose of the representation of the applicant, after considering it afresh, treating this application as a part of his representation, by passing a reasoned and speaking order, within a period of two months from the date of communication of this order and communicate the same to the applicant within a week thereafter. The applicant is given the liberty to approach this Tribunal if he is aggrieved by the decision of the respondents.

8. This O.A. stands disposed of with the above observations. No order is passed as to costs.

G.S. Mingi
7.9.99
(G. S. Mingi)
Administrative Member

D. Purkayastha
9/9/99
(D. Purkayastha)
Judicial Member