

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. MA 23 of 96
OA 75 of 96

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman
Hon'ble Mr. S. Dasgupta, Administrative Member

NOOR MAHAMMAD SHAIK

VS

UNION OF INDIA & ORS.

For the applicant ; Mr. N. Prasad, counsel

For the respondents: None

Heard on : 11.2.98

Order on : 11.2.98

O R D E R

S. Dasgupta, A.M.

We heard the 1st. counsel for the applicant at the stage of admission and perused the pleadings in the OA as well as in the reply filed by the respondents. None appears for the respondents, although Mr. M. M. Mallick, 1st. counsel for the respondents had filed power and also a reply.

2. The applicant in this case was a Switchman. By way of penalty he was reverted to the lower grade of Leverman for a period of 4 years. The period of penalty expired on 16.1.89. On expiry of the period the applicant was sent for a refresher course for the post of Switchman and thereafter he was allowed to work on the post of Switchman and from that date i.e. 10.9.90 he was given the pay of Rs.1410/- in the pay scale of Rs.1200-2040/- i.e. the pay scale of Switchman. The applicant claims by way of relief ante-dating of the pay fixation as Switchman to 10.3.89.

3. The respondents in the reply have stated that the application is barred by limitation and that it also cannot be sustained

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on merit since the applicant after the refresher course actually took independent charge of Switchman w.e.f. 10.9.90 and therefore the pay appropriate to the pay scale of Switchman was granted to him only from that date.

4. The applicant has filed a Miscellaneous Application seeking condonation of delay in filing the OA. We have seen from the various annexures enclosed by the applicant that the applicant had been pursuing the matter diligently and has not been sleeping over his rights. It also appeared that the respondents have taken considerable time in deciding his representation the earliest of which was in May 1990. We are therefore condoning the delay in filing the application.

5. So far as the merit of the case is concerned we have noticed that the penalty was to be operative for 4 years. The order which is annexed as Annexure 'A' bearing the date of 18.4.91 specifically states that on expiry of punishment of reversion to lower grade of Leverman for 4 years w.e.f. 16.1.85 the applicant was restored to his original pay of Switchman in the pay scale of Rs.1200-2040/- . The fact remains that the applicant was restored to the post of Switchman on expiry of 4 years period of penalty. No doubt some time was necessary to retrain him to function on the post of Switchman which is admittedly an operational post but the time taken by the respondents in sending him to the refresher's course and there-after putting him on the working post does not appear to be conscionable. The delay in sending the applicant for refresher's course cannot be put to the account of the applicant thereby postponing the fixation of his pay in the higher scale of pay of Switchman.

6. In view of the foregoing we allow this application. The respondents are directed to fix the applicant's pay at Rs.1410/- w.e.f 10.3.89 instead of 10.9.90 as prayed for by the applicant with all

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