

In the Central Administrative Tribunal
Calcutta Bench

OA No.1293/96

Present : Hon'ble Mr.S. Biswas, Member(A)
Hon'ble Mr.N. Prusty, Member(J)

Jahar Lal Haldar, S/o Late N.C. Haldar, retired Boiler Maker at the Office of Loco Foreman under the administrative control of the S.E. Rly Administration, Santragachi, now residing at Rly Qrs No.C-6, Unit 4 (Top), Santragachi, P.O. Jagacha

....Applicant

-Vs-

- 1) Union of India represented by GM, S.E. Rly, for Union of India and for himself, Gardenreach, Calcutta-43
 - 2) Sr.Dvl. Personnel Officer, S.E. Rly, Kharagpur-1
 - 3) Sr.Dvl. Mechanical Engineer, S.E. Rly, Kharagpur-1
 - 4) Loco Foreman, S.E. Rly, Santragachi, P.O. Jagacha
- ...Respondents

For the applicant : Mr.M.M. Roy Choudhury, Counsel

For the respondents : Mr.K. Sarkar, Counsel

Date of Order : 2. 4. 2004

ORDER

Mr.S.Biswas, Member(A)

Heard rival counsel.

2. The applicant's case is that he was appointed as Khalasi under the respondent authorities w.e.f. 8-7-53 and his date of birth was recorded as 11-5-33. Eventually he was promoted as Boiler Maker Gr.II in the scale of Rs1200-1800 (revised by IV CPC). In 1987 when he was much below 55 years of age, by an order dated 8-7-87 the applicant was compulsorily retired, whereas under normal circumstances he would have retired in May, 1991. The applicant filed an OA 521/90, which was decided on 18-12-95. The relevant extract of the order runs as follows :

"5. On the above premises, the application succeeds. The order dated 30-3-87, Annexure A1 to the application is quashed and the applicant shall be treated to be on duty from the date he was compulsorily retired till the date of his retirement on attaining the age of superannuation. He shall be paid salary and

allowances accordingly, as may be admissible under the rules less the amounts already received by him. He shall also be entitled to retiral benefits as may be admissible to him under the rules on the basis of retirement on attaining the age of superannuation. All payments due to the applicant shall be released and disbursed within 6 (six) months from the date of communication of this order".

3. The applicant has filed this OA 1293/96 afresh stating inter alia that by virtue of the said order dated 18-12-95, ..."in accordance with law i.e. the date of retirement would be 31-5-91 and the entire period of absence from duty shall be deemed as if he was on duty and difference of wages and pension shall be paid to the applicant".

4. the applicant has now claimed in pursuance of Rly Board's Circular No.PC III/80/PG/19 dated 29-7-83, ^{that} ~~he~~ ^{was also} ~~is~~ eligible to get restructuring benefit w.e.f. 1-8-92, which was not granted to him before compulsory retirement. During the period from 1987 to 1991 Juniors were promoted to Boiler Maker Gr.I in the scale of Rs1350-2200 w.e.f. 1-1-86, which benefit should also be given to him, as acquired by the juniors by virtue of restructuring benefit.

5. In their reply the respondents have vehemently opposed the present OA and has further brought on record that the applicant has filed a separate OA 1292/96 on non-payment of DCRG in which the question of non-vacation of railway quarters was linked and despite orders dated 28-8-2000 directing the applicant to vacate the Rly Quarters, and settle all dues, the applicant did not vacate the quarters as yet.

6. Since that is subject matter of a separate OA where a specific order was passed in that behalf - we would not like to digress beyond the specific parameters of cause of action projected in this OA with statement of fact, for the present.

5. *Q*
7. By and large the contentions of the respondents have been to point out that all the dues and arrears including pension,

as required revision, have been worked out and dues in full compliance have been disbursed, leaving no further grievance to be addressed in this OA. No such order regarding promotion if any given to any juniors during 1987 i.e. when he was compulsorily retired and on 31-5-91 he ought to have legally retired was entertained in the said order dated 18-12-95. Since it is only belatedly in the present OA such a question has been raised without any supporting evidence or specific case reference in the OA to be looked into by the respondents.

8. The learned counsel for the applicant filed an affidavit on 22-3-04 being the date of final hearing to say only this much that certain persons who were his juniors were promoted during the interregnum of 1987 to 31-5-91.

9. The learned counsel for the respondents took objection to submission of an affidavit to implant any facts at the last moment of final hearing. We have carefully examined the affidavit to find that in para 4(i) only this much has been stated :

" (i) Nazir Ali, BM II/SRC promoted on B.M. I on 16-10-88 (ii) B.Prasad, B.M. II/SRC promoted to B.M I on 16-10-88 ".

Two other names (Isto Bar and B. Appa Rao) BM II who were also promoted but their date of promotion has not been given.


10. We have considered these two names. The applicant has not been able to file any documents or their promotion order superseding him. Nor any seniority list showing their seniority position vis-a-vis the applicant has been produced in support of this reference - we are unable to take cognisance of these two names as are his juniors, who were actually promoted. In fact the application is by and large vague and unsupported by documentary evidence that any of his juniors vis-a-vis the applicant in order of seniority were promoted from 8-7-87 to 31-5-91.

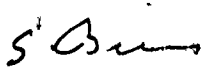
11. The most point for relief to be considered in this OA is whether any restructuring benefit was actually due to the applicant in terms of the order dated 29-7-83 (cited in para 1, 4(e), the effect of which was allegedly granted to his juniors

S. B. [Signature]

w.e.f. 1-1-86. In the first place no names of such juniors who statedly received restructuring benefit in terms of order dated 29-7-83 have been disclosed by the applicant. The OA to that extent grossly vague and not sustainable.

12. As the date 1-1-86 suggests it refers to IV CPC recommendation, the pay scales given by the applicant in page 4/para 4/III clearly shows that he was receiving already the IV CPC scale (w.e.f. 1-1-86 Rs1200-1800) which is a IV CPC awarded scale. Hence all that survives of this allegation is denial of restructuring benefit in terms of order dated 29-7-83. We have perused this order made effective from 1982. Therefore, if he failed to receive the benefit by virtue of this 1983 order when he was very much in service, he should have challenged the omission or denial in 1982-83. Hence his case is badly time barred. This cannot be construed as a cause of action now in 1996. Further, we have carefully looked into the provisions of this order which gives the names of Grades and Scales who are eligible to get the benefit of Boiler Makers are not included in the list. Hence the OA fails on merits. We dismiss the same. No costs.


Member(J)


Member(A)