

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. NO. 195 OF 1996

Present : Hon'ble Mr. Justice A.K.Chatterjee, Vice-Chairman
Hon'ble Mr. M. S. Mukherjee, Member (A)

Shri Birendra Nath Ghosh,
Formerly, O.S.Gr.I,
E.Rly. Howrah Division,
Vill. & P.O. Dafarpur,
P.S. Domjur, Dist. Howrah
PIN : 711 405

VS

1. Union of India through the General Manager, E. Railway, 17, N.S.Road, Fairlie Place, Calcutta-700 001
2. Chief Personnel Officer, E. Railway, Fairlie Place, 17, N.S.Road, Calcutta-1
3. Divisional Railway Manager, E. Rly. Howrah Division, P.O. & Dist. Howrah

..... Respondents

For the petitioner : Mr. P.C.Das, Counsel

For the respondents : Mr. P.K.Arora, Counsel

Heard on : 25.6.97 : Order on : 24.7.97

O R D E R

M.S.Mukherjee, A.M.:

This is a petition u/s 19 of the Administrative Tribunals Act, 1985, in which the petitioner is aggrieved by the decision as communicated by the Divisional Railway Manager, E.Railway, Howrah, (respondent No. 3) through his letter No. E/16/Pension Adalat/95(50) dated 13.12.95 (Annexure-G to the petition) rejecting the case of the petitioner for refixation of his pay and pensionary benefits.

2. The petitioner, who had originally been appointed as a Clerk in the Eastern Railway in 1956, had been promoted successively, the ^{last} promotion being to the post of Office Superintendent, Gr.I from O.S. Gr.II on 25.3.88 and he retired as OS, Gr.I on 31.7.89 on attaining the age of

superannuation. The petitioner submits that he had been granted special pay of Rs. 35/- per month with effect from January 1981 in terms of certain office order dated 22/11/80 on upgradation and accordingly he was enjoying the grade pay of Rs. 330-560/-. He then alleges that in terms of certain judgement of the Central Administrative Tribunal (the cause title, the OA No. or the citation of the said judgement of the Tribunal not indicated), the petitioner was put as Head Clerk in scale Rs. 425-700/- and his pay fixation as OS, Gr.II and OS, Gr.I was made as under :

Rs. 675/- as on 12.05.85 as OS, Gr.II in scale Rs.550-750(RS)
Rs. 2000/- as on 1.1.86 as O.S. Gr.II in scale Rs.1600-2600/
Rs. 2050/- as on 1.5.86 as OS. Gr.II in scale -do- .
Rs. 2100/- as on 1.5.87 as OS. Gr.II in scale -do-
Rs. 2150/- as on 1.5.88 as OS. Gr.II in scale -do-
Rs. 2240/- as on 2.1.89 as OS, Gr.I in scale Rs. 2000-3200/

3. The petitioner submits that while above fixation has been made by the respondents, nothing had been intimated to him, since he had meanwhile retired from service w.e.f. 31.7.89, asking for exercising option for refixation on notional basis from the date of his promotion by taking into account the special pay of Rs. 35/- and therefore actual benefit had not been extended to him after 1.9.85. Therefore, according to the petitioner, the principles of the ruling of the Central Administrative Tribunal, as allegedly has been made clear in CPO/CC's circular No. E/839/0/PT-III(DUP) dt. 21.3.90, had not been taken into consideration at the time of doing his pay fixation.

4. Being aggrieved the petitioner made a detailed representation before the DRM (respondent NO. 3) on 22.11.91 (Annexure-E to the petition) and having received no response, he sent another detailed reminder representation on 12.9.95 vide Annexure-F to the petition. The petitioner has further

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added that his case had already been taken up before the Railway Pension Adalat, but the respondent No. 3 by his aforesaid impugned letter dt. 13.12.95 (Annexure-G) intimated him as follows "

" You have been granted Rs. 35/- as special pay in terms of CPO's Sl. No. 185/79 w.e.f. Jan/81.

Subsequently, you have been promoted from Sr. Clerk to Head Clerk in scale Rs. 425-700/ 7.5.82 i.e. prior to take effect of Sl. No. 270/87 w.e.f. 1.9.85.

Thus you are not entitled to the benefit of pay fixation according to Sl. No. 270/87. "

5. The petitioner is aggrieved by this communication of the respondents and adds that the respondents have not acted in terms of the aforesaid judgement of the Central Administrative Tribunal (detailed information about the judgement not specified). He also adds that one Shri I.K.Das, who had been junior to the petitioner all along is now drawing pension of Rs. 1150/- per month in comparison to petitioner's pension of Rs. 1107/- per month, though the petitioner had all along been senior to Shri Das while both of them were in service. Therefore, as per rules, the petitioner's pay should have been stepped up to the level of his junior Shri I.K.Das and consequentially, the petitioner is also entitled to enhanced pension and other pensionary benefits including arrears of pay and pension etc. The petitioner has, therefore, prayed for a direction on the respondents to review the case of the petitioners in the light of the CPO's aforesaid circular No. 132/88 and to grant him higher pay and pension etc. at par with his junior.

6. After the application has been filed, the Tribunal by

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its order dt. 21.3.96 directed Mr. P.K.Arora, the learned counsel for the respondents present to file reply by 14.8.96. Thereafter, the case was adjourned several times, but no reply has been filed. Eventually, the case was taken up for hearing on 25.6.97. On the date of hearing Mr. Arora submitted that he had not been able to file his reply or was not in a possible to make any submission in the absence of any instruction or brief from the respondents.

7. We are, therefore, handicapped in properly adjudicating the claim of the petitioner, as neither the petitioner has furnished the relevant ruling of the Tribunal and the railway instructions on which he relies, ^{nor} nor have the respondents produced the relevant instructions or rules on which they rejected the representation of the petitioner dt. 12.9.95 through their communication dt. 13.12.95 (Annexure-G). This impugned letter dt. 13.12.95 from respondent No. 3 in reply to the representation of the petitioner dt. 12.9.95 to Pension Adalat/95. It is not clear whether the petitioner's representation dt. 12.9.95 as at Annexure-F to the instant petition is identical with his representation of the same date before the Pension Adalat.

8. However, since the petitioner is a retired pension and he seeks enhancement of his pension and other related reliefs, we dispose of this petition at the admission stage itself with the order that the respondents shall, within 3 months from the date of communication of this order, dispose of the petitioner's representation dt. 22.11.91 and 12.9.95 (Annexures- E & F respectively) and if the petitioner's claims are accepted, he be given all the benefits as per rules within 2 months thereafter. However, if the respondents reject the representation, they will have to do so by means of a detailed speaking order specifically covering the aforesaid representation para-wise and communicate the result to the

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petitioner within 3 months from the date of communication of this order.

9. There will be no order as to costs.

Mukherjee
24/7/1997
(M.S. MUKHERJEE)

MEMBER(A)

A. Chatterjee
26.2.97
(A. K. CHATTERJEE)

VICE CHAIRMAN