

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.M.A.338 OF 2002
O.A.970 of 1996.

Date of Order: 16.2.2004.

Present : Hon'ble Mr. Nityananda Prusty, Judicial Member
Hon'ble Mr. N.D. Dayal, Administrative Member.

ATUL CHANDRA SAHA

VS.

UNION OF INDIA AND ORS. (M/O. DEFENCE)

For the Applicant : Mr. S.K. Dutta, counsel

For the Respondents : Mr. M.S. Banerjee, counsel.

O R D E R

MR. NITYANANDA PRUSTY, JM:

Mr. S.K. Dutta, ld. counsel appears on behalf of the applicant in place of Mr. S.K. Ghosh, ld. counsel who was earlier appearing on behalf of the applicant and files his power today in the court, the same may be kept in record.

2. Heard Mr. S.K.Dutta, ld. counsel for the applicant and Mr. M.S. Banerjee, ld. counsel for the official respondents.

3. In this application the applicant has prayed for the addition of Paragraph-8(b) after the prayer of 8(a) by way of amendment. The paragraph, which is prayed to be added as 8(b) to the prayer runs as follows:

" To direct the respondents to give higher pay scale to the applicant w.e.f. 01.01.88 and give all consequential benefits of service w.e.f. that date including Group 'B' Gazetted status to the applicant with retrospective effect and include the name of the applicant as Asst. Engineer w.e.f. 1988 and further R/P Group 'D' coloumn 12(1) in the seniority roll of Civilian Technical Officer EME and further promotion to the rank classified of AEE and above higher posts with cumulative benefit."

Contd....2.



3. when this matter was taken up Mr. M.S. Banerjee, ld. counsel appearing on behalf of the respondents brought to our notice the main prayer of the applicant in the O.A. which was to the following effect:

"8(a) declaration that the applicant is entitled to be requalified as Chief Draughtsman Group-'B' Gazetted from the date of issuance of notification which is under Annexure-A/2 and Annexure-A/3 to this application and with a direction upon the respondents to forthwith reclassify the applicant as Group-'B' Gazetted as Chief Draughtsman."

4. Mr. Banerjee, ld. counsel further submits that both Annexure-A/2 and A/3 were issued by notification dated 27.3.1992. The only prayer of the applicant in the O.A. was initially for his entitlement to the reclassified Chief Draughtsman Group-'B' Gazetted from the date of issuance of notification under Annexure-A/2 and Annexure-A/3. The present amendment by which the applicant prays for higher pay scale w.e.f. 1.1.88 including Group-B status with retrospective effect and include the name of the applicant as Asst. Engineer w.e.f. 1988 and further R/P Group-'B' column 12(1) in the seniority list roll of Civilian Technical Officer of EME and further promotion to the rank of AEE and above higher posts with cumulative benefit, shall completely change the nature and character of the case. As such it will be a completely fresh prayer for some other benefits which has not been claimed in the Original Application, but is being incorporated by way of amendment/addition, which will amount to be a completely new/fresh cause of action.


5. In that view of the matter, ld. counsel submit this application should be rejected and in case the applicant is otherwise entitled for the same as per rules, then he is at liberty to approach the appropriate forum for redressal of his grievance, but should not be permitted to incorporate those reliefs in this O.A.


6. Mr. Dutta, ld. counsel for the applicant submits that eventhough the applicant claims benefits from 1988 by way of this amendment, the same has been prayed for keeping in view of the subsequent developments in the case.

7. We have heard ld. counsel for both the parties and after going through the materials available on record, more particularly earlier prayer 8(a) and subsequent prayer to be added as 8(b), we are of the considered view that in case this prayer is added to the O.A., the same will completely change the nature and character of the case, and also shall amount to multiple prayers, which is not permissible as per the CAT Act and Rules. Further more the additional prayer will be a fresh cause of action for the applicant.

8. In view of the discussions made above, we are not inclined to entertain this application at this stage. The M.A. is accordingly, dismissed. However, there shall be no order as to costs.

9. Let the O.A. shall be taken up for hearing on 03.05.2004.


MEMBER(A)


MEMBER(J)

ASVS.