

In The Central Administrative Tribunal
Calcutta Bench

OA 416 of 1996

Present : Hon'ble Mr. B.P. Singh, Administrative Member
Hon'ble Mr. Kuldip Singh, Judicial Member

Abdul Salem, s/o Sk. Fakir Mohammed,
retired Accounts Asstt, Office of FA
& CAO(Con), SERly., Garden Reach,
Calcutta residing at Vill & P.O. Rai-Gamna
P.O. Pandua, Dist: Hooghly.

..... Applicant

- Versus -

- 1) Union of India, service through General Manager, S.E.Rly., Garden Reach, Cal-43.
- 2) General Manager, S.E.Rly., GRC, Calcutta-43.
- 3) F.A. & C.A.O.(Con), S.E.Rly., GRC, Cal-43.

..... Respondents

For the Applicant : Mr. B.C. Sinha, counsel

For the Respondents: Mr. B.K. Gupta, Counsel

Heard on : 05-02-02

Date of Order : 05-02-02

ORDER

KULDIP SINGH, JM

The applicant has impugned the order dated 9-2-95 (Annexure-A/8) whereby his representation for fixation of pay in comparison to his junior Shri N.R. Ghosal had been rejected. The fact of the case is that the applicant was appointed in the Accounts Department of the S.E. Railway on 11.12.57. He passed the Appendix II-A(IREM) examination in November, 1960. He was granted special pay of Rs.35/- w.e.f.

1.2.84 vide Annexure-A/1 and his junior Shri Ghosal was granted special pay of Rs.35/- w.e.f. 1-6-84. Subsequently, vide another

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order (Annexure-A/2) the date of grant of the benefit of special pay of Rs.35/- was postponed and fixed on 1.1.84 in lieu of 1.6.84. Since then applicant ~~did not~~ claimed the special pay in comparison to Shri Ghosal. The respondents in their reply vide impugned letter had denied the benefit to the applicant on the plea that since Shri Ghosal had passed the Appendix-II(A) Examination later as per circular of Railway Board dated 31-3-1970 there was direction to fix the seniority from the date of entry in the service. Shri Ghosal entered the service w.e.f. 1-10-55 whereas the applicant joined the service w.e.f. 11.12.1957. In that very letter the respondents also pointed out that after March 1970 it has been decided that seniority is to be fixed from the date of passing the examination after 31-3-1970 and by virtue of that the applicant had become junior to Shri Ghosal.

2. One plea to deny the benefit to the applicant is that ~~since~~ the applicant had become Sub-Head earlier to Shri Ghosal and ~~Shri Ghosal was promoted as Sub-Head w.e.f. 1.1.84.~~ So, the applicant cannot be considered for getting the benefit of special pay of Rs. 35/- w.e.f. 1.1.84.

3. We have heard ld. counsel of both the parties and gone through the records. The pleadings taken by the respondents is contradictory because on the basis of the documents submitted by the respondents we find that the date of appointment of the applicant is not the criteria for getting the benefit of special pay. The criteria is to pass the Appendix-II/A Examination after 1970. It is evident from Annexure-A/7 that the applicant had passed the Appendix-II/A in November, 1960 whereas ~~the~~ Shri Ghosal passed the said test ~~March,~~ in 1970. The fact remains that the respondents thus changed this criteria and according to the respondents, Shri Ghosal passed the Appendix-II/A Examination in March, 1970. If the criteria which has been changed after March, 1970 is taken into consideration then the applicant had passed the trade test earlier to Shri Ghosal. So, by virtue of that the applicant becomes senior. This has been

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categorically stated in paragraph 12 of the reply.

"In fact Md. A. Salam is senior to Shri N.R. Ghosal in all respects on and from 1.4.1970 according to Board's letter No. E(NG)169 AM/20 dated 25.7.1969. Prior to 1.4.70 date of entry in Railway Service was the criteria for assigning seniority which was communicated to Md. Salam through office letter dated 9.8.94.

4. In view of the submissions of the respondents we find that the applicant in all respects is senior to Shri Ghosal. Accordingly, we direct the respondents to give the said benefit to the applicant w.e.f. 1.1.84 as was done in the case of his junior Shri Ghosal. With this observation application is disposed of. No costs,

Kuldeep Singh
(Kuldip Singh)
Member (J)

Jayant
(B.P. Singh)
Member (A)

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