

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR

O.A. No.402/1995

Date of Order : 5.3.1998

1. O.P. Varshney s/o Shri Mishri Lal ji r/o Village and Post - Rajagarh, District Mathura (Uttar Pradesh), presently residing at Flat No.10, University Flats, Residency Area, Jodhpur, retired from the office of the Divisional Railway Manager as "Signal Inspector (T)", Northern Railway, Jodhpur.

... Applicant

VERSUS

1. Union of India, through The General Manager, Northern Railway, Baroda House, New Delhi.

2. Chief Signal and Telecommunication Engineer, Northern Railway, Baroda House, New Delhi.

3. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur.

... Respondents

Mr. S.K. Malik, Counsel for the applicant.

Mr. S.S. Vyas, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

The applicant, O.P. Vashney, has filed this application under Section 19 of the Administrative Tribunal Act, 1985 praying for his promotion in the scale of 840-1040 w.e.f. 1.1.1984 under the restructuring scheme and to pay the difference of the arrears with reasonable rate of interest.

2. Brief facts of the case as are related to the issue under consideration are that the applicant was working in the scale of 700-900

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since the year 1980. That the applicant was issued a charge sheet under Rule '9' of the Railway Servants (Discipline and Appeals) Rules, 1968 vide memorandum dated 21.11.1983. That the said charge sheet was quashed by this Tribunal vide its order dated 23.3.1989 in O.A. No.19/86. In the meantime the authorities introduced the cadre restructuring scheme effective from 1.1.1984 and the applicant was also eligible to be considered under the same scheme. The respondents had not promoted him under the restructuring scheme w.e.f. 1.1.1984 on the plea that action was under way against the applicant under the Railway Servant (Discipline and Appeals) Rules, 1968. With the quashing of the charge sheet by this Tribunal under order dated 23.3.1989, the respondents have fixed the pay of the applicant w.e.f. 1.1.1984 in the promotion scale of 840-1040 on proforma basis vide their letter dated 6.9.1996 (Anx.R/2). Since the pay fixation was done on proforma basis no arrears of pay fixation from 1.1.1984 to the date of issue of the order dated 6.9.1996 were to be paid to the applicant. Despite repeated requests from the applicant, the respondents have not agreed to pay him the arrears on account of pay fixation in the higher scale for the intervening period with the result that the applicant has approached this Tribunal for the said relief. It is the contention of the respondents that since the applicant did not work on the higher post he was not entitled to financial benefits for that period.

3. We have heard the learned counsel for both the parties and perused the records of the case.

4. The learned counsel for the applicant has brought to our notice the Railway Board Circular dated 1.5.1984 dealing with the subject - Cadre Review and restructuring of Group 'C' cadres. Para '8' of the said Circular reads as under:

8. In all the categories covered by this letter even though posts in higher scales of pay have been introduced as a result of restructuring, the basic function, duties and responsibilities, attached to these posts at present will continue to which may be added such other duties and responsibilities as considered appropriate."

It is clear from the above that duties and responsibilities attached to the

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higher post under the restructuring scheme were the same as that of the lower post prior to restructuring of the cadres. Since fitment in the restructuring scheme did not involve assumption of higher duties and responsibilities, we are firmly of the view that the applicant is entitled to all financial benefits consequent upon his promotion in the scale of 840-1040 w.e.f. 1.1.1984 as a result of fitment under restructuring scheme. The prayer of the applicant regarding payment of interest on the arrears of pay fixation in the restructured scale is, however, liable to be rejected.

5. The O.A. is, therefore, partly accepted. The respondents are directed to pay to the applicant arrears of pay and allowances, etc. as per the pay fixation order Annexure R/2 dated 6.9.1996 within a period of three months from the date of communication of this order. The prayer relating to interest is however rejected.

6. The parties are left to bear their own costs.

Gopal Singh

(Gopal Singh)
Administrative Member

A.K. Misra

(A.K. Misra)
Judicial Member

Aviator/

Ree 6/3/88

Rec'd 6/3/88

Part II and III destroyed
in my presence on ... 6-4-2004
under the supervision of
section officer () as per
order dated 22/12/2003.

Section officer (Record)

sent for certified
filed and
from photocopier
on 14/98
and
21/98