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कांगड़ा (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत विशुल्क

1. THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BEACH,
C O D H P U R

Date of order : 9/5/1997.

1. O.A.No. 261/1996

Satya Prakash S/o Shri Banshi Lal R/o C/o Bhati Misthan Bhandar, Rasala Road, at present employed on the post of Material Chassing Clerk, in the office of Deputy Chief Engineer/C-II, Northern Railway, Jodhpur.

..... Applicant

2. O.A.No. 290/1996

S.M.A.Rizvy S/o Shri Sayeed Nafisul Hassan Rizvy, R/o C/o Bhati Misthan Bhandar, Rasala Road, at present employed on the post of Material Chassing Clerk in the office of I.C.W. (C-1-V), Bhagat-Ki-Kothi, Northern Railway, Jodhpur.

..... Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Engineer/Construction-II, Northern Railway, Jodhpur.
3. The Chief Adminiistrative Officer (Construction), Headquarter Officer, Kashmir House, New Delhi.

..... Respondents in the OAs

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

FOR THE APPLICANTS
FOR THE RESPONDENTS

..... Mr.J.K.Kaushik,Advocate
..... Mr.S.S.Vyas,Advocate

O R D E R

BY THE COURT

Since the facts and point of law involved in these two Applications are common, they are being disposed of by this common order.

2. The applicants who are presently employed on the post of Material Chassing Clerk (M.C.C.), in different

Departments in Jodhpur Division of Northern Railway, Jodhpur, have filed these Applications with the prayer that the impugned order dated 7.8.1996 (Annex. A-1), passed by the respondent No. 2 withdrawing the Order of fixation of pay of the applicants, be quashed and they be allowed all consequential benefits including the arrears of pay accrued on account of pay fixation orders submitted alongwith the C.A. as Annexs. A/3 and A/2 respectively.

3. The facts alleged by the applicants in their applications are that after granting the temporary status as Khallasi/Gangman they were physically employed as M.C.C. in pay scale Rs. 950-1500 from 18.8.1983 to 25.4.1990 (applicant of OA No. 261/96) and from 4.4.1986 to 1.12.1995 (applicant of OA No. 290/96) respectively by the respondents. The respondents fixed the pay of the applicants as per Annex. A/3 and Annex.A/2 respectively and they have been drawing their basic pay as per the fixation order in the pay scale of Rs. 950-1500 and are still continuing on the post of M.C.C. The applicants have further alleged that the respondent No. 2 issued letter Annex.A-1 withdrawing the earlier pay fixation orders issued in favour of the applicants without giving any notice or opportunity of hearing to them. The action of the respondent No. 2 results in reduction of the basic pay of the applicants and is visited with the civil consequence. The pay of the applicants cannot be reduced otherwise than by way of penalty. Therefore, the order dated 7.8.1996, Annex.A-1, deserves to be quashed.

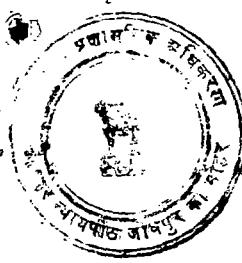
4. The respondents have filed their reply in which they have disputed the facts relating to postings etc. as alleged by the applicants. They have alleged that after granting the temporary status, the applicants were posted as Storemen in the grade Rs. 210-270 (RPS) and were granted the benefits of higher pay purely on temporary and ad hoc basis whenever their services were utilised by the respondents on higher post, as local temporary arrangement which could be withdrawn at any time without giving any notice to the applicants. The

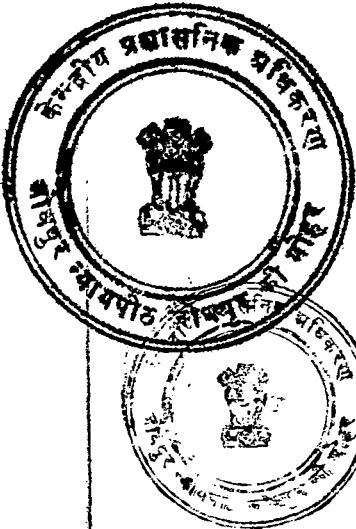
respondents have denied that applicants continuously worked as M.C.C. as alleged in the applications. The respondents have contended that the pay of the applicants as M.C.C. was wrongly fixed by the respondent No. 2. As such, the applicants are not entitled to draw the pay as per that order. The pay of the applicants has been correctly revised vide the impugned order. No notice was required before withdrawing the previous pay fixation order. The applicants are not entitled to any relief.

5. I have heard the learned counsel for both the parties and gone through the records.

6. The applicants assert that although they were appointed as Khallasi/Gangman but their services were continuously taken on the post of M.C.C. since regularisation and, therefore, they are fully entitled to pay as per the pay fixation order whereas this position is disputed by the respondents. The respondents have asserted that after the regularisation, the applicants have worked on different posts as a local ad hoc arrangement and were paid accordingly. Thus, in my opinion, there is a dispute in respect of factual aspect of working of the applicants on the post of M.C.C.

7. The applicants have alleged that the pay fixation order has been withdrawn without giving any prior notice to them. This position is admitted by the respondents but it has been alleged by them that no notice to the applicants was required in the instant case as the department has only corrected the administrative error. But this is not disputed by the respondents that the applicants are presently receiving the pay @ Rs. 1175/- and Rs. 1150/- respectively in the pay scale of Rs. 950-1500. The respondents action of withdrawing the previous pay fixation order would, mean reduction of applicants' pay and consequential financial losses to the applicants. Therefore, in my opinion, before passing the order Annex. A-1, the respondents ought to have given show cause notice to the applicants so that they could represent before the authorities and place facts relevant to their pay fixation. But the respondents have provided no such opportunity to the applicants, therefore, in my opinion, the order Annex. A-1 deserves to be quashed and the





4.

Respondents Railways could be directed to decide the matter in controversy as per rules after providing an opportunity to the applicants to represent against the proposed order. The O.As deserve to be accepted.

8. Therefore, the OAs are accepted and the impugned order Annex.A-1 dated 7.8.1996, is hereby quashed and the respondents are directed to decide the matter in controversy by giving Show Cause Notice to each of the applicants for the proposed action and pass a reasoned order.

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

Sd/
(A.K. Misra)
Judl. Member

MEHTA

प्रमाणित सही प्रतिलिपि
14-5-97
अनुभाग अधिकारी (व्यायिक)
केन्द्रीय प्रधानिक प्रधिकरण
जोधपुर

1. *Recd*
copy
copy

2. *Sig. of mis 07261/96*

Part II and III destroyed
in my presence on 20/5/93
under the supervision of
section officer () as per
order dated 4/3/93

Section officer (Record)