

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

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Date of order : 28.07.1999

1. O.A. No. 37/1996

with

M.A. No. 38/97

in

O.A. No. 37/96.

Sumati Chand Patodi son of late Shri Gulab Chand, retired Chief Inspector Tickets (CIT), Northern Railway, Bikaner, resident of Near Jail Well, Bikaner (Rajasthan).

... Applicant.

versus

1. Union of India through General Manager, Northern Railway Headquarters, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner, Rajasthan.
3. Senior Divisional Personnel Officer, Northern Railway, Bikaner, Rajasthan.
4. Divisional Personnel Officer, Northern Railway, Bikaner, Rajasthan.

... Respondents.

Mr. Bharat Singh, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(Per Hon'ble Mr. Gopal Singh)

Applicant, Sumati Chand Patodi, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 8.12.1995 (Annexure A/1) and for a direction to the

Gopal Singh

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respondents to fix the pay of the applicant in the scale of Rs. 700-900 on the post of Chief Inspector Tickets with effect from 01.01.1984 and to pay him the difference of pay and allowances till the date of his retirement with the market rate of interest.

2. Applicant's case is that he joined the Ex-Bikaner State Railway on 20.9.1948 as Clerk and he finally retired from service with effect from 31.12.1988 while working as Chief Inspector Tickets in the Bikaner Division. It is the contention of the applicant that some ^{of} his juniors namely, Roop Singh, Avtar Singh and Raj Kumar were given the scale of Rs. 700-900 with effect from 1.1.1984 under the upgradation scheme but the applicant has been given the said scale with effect from 1.8.1985. He submitted a representation to the respondents in this regard, but the same was rejected by the respondents vide their letter dated 8.12.1995 (Annexure A/1). Feeling aggrieved, the applicant has approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply to which the applicant has filed rejoinder.

4. We have heard the learned counsel for the parties and perused the record of the case. The respondents have contested the application on the ground of limitation. It has been averred on behalf of the respondents that the applicant is seeking relief for a grievance that arose on 1.1.1984, 12 years after the grievance had arisen. In this connection, it is seen from the records that one Shri Raj Kumar had filed an original application in this Tribunal seeking fixation of his pay in the scale of Rs. 700-900 at par with his juniors and the O.A. was disposed of in August, 1993 with the following observations:-

"Now since both the persons, namely, the applicant as also Harbans Lal Chopra have retired, we direct the respondents that in case a representation is made by the applicant giving details of the seniority list by which he is senior to Harbans Lal Chopra, then the matter may be re-examined and the representation, if any, should be disposed of within a period of two months from the date of filing of the representation on merits and by a speaking order. In case the applicant

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is found to be eligible for promotion, then he shall be further allowed all consequential benefits. This disposes of the O.A. with no order as to costs."

Accordingly, Shri Raj Kumar was given the benefit of pay fixation in the pay scale of Rs. 700-900 with effect from 1.1.1984 vide respondents' letter dated 14.12.1993. Since Shri Raj Kumar was junior to the applicant, the applicant submitted a representation on 28.10.1995 seeking pay fixation with that of Shri Raj Kumar but the same has been rejected by the respondents vide their letter dated 08.12.1995 (Annexure A/1). This O.A. has been filed by the applicant on 8.1.1996. Thus, the contention of the respondents that the application is barred by limitation does not stand. The benefit of upward fixation with effect from 1.1.1984 in case of Raj Kumar was given on 14.12.1993. The applicant had submitted various representations in this regard to the respondents, reply of which was given on 8.12.1995. Arguments of the respondents that the case is barred by limitation is, therefore, rejected.



5. The applicant has also filed an M.A. No. 38/97 for condonation of delay, if any, and the same has been allowed.

6. In their letter dated 8.12.1995 (Annexure A/1) the respondents have stated that S/sh. Avtar Singh and H.L. Chopra had to be allowed the scale of Rs. 700-900 till their retirement because they had obtained a stay order from the Court of the Munsif Magistrate, Ratan Garh, and further that Shri Raj Kumar has been allowed promotion with reference to S/shri Avtar Singh and H.L. Chopra, juniors to him in view of CAT, Jodhpur Bench's order. It has, however, been pointed out in this letter that Court's decision in individual cases cannot be taken as precedence and, therefore, the applicant is not entitled to get the benefit as claimed by him. It has also been stated by the respondents in their reply that the representation submitted by Shri Raj Kumar in terms of order of the Central Administrative Tribunal cited above was disposed of wrongly by giving him all consequential benefits with effect from 1.1.1984 and that Shri Raj Kumar was also not entitled to get the benefit of promotion in comparison to

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S/shri Avtar Singh and H.L. Chopra because there were seven more candidates senior to Shri Raj Kumar. It has, however, not been mentioned as to how the case of Raj Kumar was wrongly dealt with at the relevant time and if it was wrongly dealt with, why the mistake was not subsequently rectified. There are no documents available on file to indicate that the case of Shri Raj Kumar has been wrongly disposed of. It appears that this argument is a mere after thought so as to deny the benefit to the applicant. The respondent-department had also the opportunity of contesting the stay granted in cases of S/shri Avtar Singh and H.L. Chopra, but perhaps they chose not to and allowed the benefit to the junior officials. In the light of the above discussion, we do not find any reason as to why the applicant who happens to be senior to S/shri Avtar Singh, H.L. Chopra, Roop Singh and Raj Kumar can be denied the benefit of promotion and fixation in the scale of Rs. 700-900 with effect from 1.1.1984. Further, Shri Raj Kumar retired from service from 31.7.1988 while the applicant retired from service with effect from 31.12.1988. The respondents had refixed the salary of Shri Raj Kumar giving him the benefit of the scale of Rs. 700-900 with effect from 1.1.1984, only on 14.12.1993. Since the applicant was senior to Shri Raj Kumar, the same benefit could have been extended to him by the same letter without any representation from the applicant. We feel that the applicant has been unnecessarily harassed by not giving him the benefit of the scale of Rs. 700-900 on the date this benefit was extended to his junior.

7. In the circumstances, this O.A. is allowed with the direction that the applicant may be fixed in the pay scale of Rs. 700-900 with effect from 1.1.1984 at par with his junior and the difference of pay and allowances becoming due in terms of this order and the pay and allowances already drawn by the applicant be paid alongwith the interest @ 12 per cent per annum to the applicant within a period of three months from the date of issue of this order. Since the applicant has already retired from service, pensionary entitlements should also be recalculated and difference alongwith interest @ 12 per cent per annum thereon be paid to him within the aforesaid period.

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



(GOPAL SINGH)
Adm. Member

CVR.

28/7/99
(A.K. MISRA)
Judl. Member

copy recd
by
R.K. Singh
29/7/99
(Mr. & Mrs) Singh
Palcode

R.D.
R.K.
21/8/99
R.K. Singh
Palcode

Part II and III destroyed
in my presence on 29/7/99
under the supervision of
Section Officer (R.D.) as per
order dated 16/5/99

Section Officer (Record)