

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR.

OA NO.139/96

Date of Order: 2.3.2001

Ram Dhan Meghwal son of Shri Rawat Ram Mistry Machine Shop Workshop, Northern Railway Bikaner - Resident of Badi Jasolai, Near Outer Signal Bikaner(Raj.)

.....APPLICANT

V E R S U S

1. Union of India, through General Manager, Northern Railway, Head Quarters, Baroda House, New Delhi.
2. Deputy Chief Mechanical Engineer (Workshop) Northern Railway(Workshop) Bikaner(Raj.)
3. Assistant Personnel Officer(Workshop) Northern Railway, Workshop, Bikaner.

.....RESPONDENTS

Mr. Bharat Singh, counsel for the applicant.

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

CORAM

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

Hon'ble Mr. A.P. Nagrath, Administrative Member.

ORDER

(per Hon'ble Mr. A.P. Nagrath)

1. The applicant in this OA has challenged his reversion from the Ex-cadre post to the parent cadre post and makes a prayer to direct the respondents to restore his pay scale and basic pay which was getting prior to 28.8.1994 and to treat him as in scale



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Rs.1400-2300/- which he was holding before being reverted to the parent cadre.

2. As per facts admitted on either side, the applicant was posted as Mistry in Production Control Organisation(P.C.O.) on 18.1.79 and he continued to work on that post till 28.9.94. The post in P.C.O., is an ex-cadre post whereas in the parent-cadre, the applicant was a Machineman. The applicant's case is that he should not have been reverted to his parent cadre post after long 15 years and that his basic pay should not have been reduced from Rs.1800/- to Rs.1560/- w.e.f. 28.9.94 without giving him any show cause notice.

3. The learned counsel for the applicant submitted before us that he was not pressing for any relief against the action of the respondents in bringing him back to the parent cadre, so we are not going into that aspect of the matter. He also stated that the applicant has again been posted in P.C.O. and is presently working there. He admitted that the applicant was brought back to the parent cadre from the ex-cadre in the same scale which he had while working against the ex-cadre post in P.C.O. and to that extent the applicant has no grievance. According to him the relief sought against reduction in pay w.e.f. 28.9.94 when the applicant was reverted back to the parent cadre from P.C.O. still survives and is amply sustainable in law.

4. Learned counsel for the applicant drew our attention to G.M/P's letter dated 21.2.85 and Railway Board's letter dated 7.8.86 to support his claim that the pay of the applicant could not have been reduced when he was brought back to the parent cadre after long 15 years. He referred to Railway Board's letter dated

16.5.1973 and argued that this letter very explicitly provided that the pay of a Railway servant, which he was drawing while holding an ex-cadre post, is to be protected on his reversion to the cadre post, by granting personal pay. His contention was that these instructions of the Railway Board have been ignored by the respondents in the applicant's case.

5. Learned counsel for the respondents on the other hand contended that pay of the applicant could be protected only if there is a specific provision for the purpose in the rules. He maintained that there was no such rule existing and that the pay of the applicant has been fixed strictly as per fundamental rules as applicable in the case of a railway servant on his being brought back to the cadre from an ex-cadre post and consequently the applicant has no cause of grievance.

6. We have carefully gone through the instructions in Railway Board's letter dated 16.5.73 and letter dated 7.8.86 on which reliance has been placed by the learned counsel for the applicant. On reading of these two letters, we find that these two, in fact, negate the case of the applicant and apparently learned counsel for the applicant misunderstood the contents of these two letters. Vide the letter dated 16.5.73 Railway Board have clarified that with the amendment to proviso to Rule 2017(FR-22)R.II the instructions issued vide Railway Board's letter dated 18.11.66 regarding counting of service rendered in ex-cadre post for increment in a cadre post in an identical scale no longer survive except to the extent the conditions laid down therein are fulfilled. In terms of Railway Board's letter 20.5.61 the pay of a Railway


servant, on his reversion to his parent cadre and appointed in that cadre to a post, higher than the ex-cadre post immediately held before such reversion, was to be fixed in accordance with the Rule 2018(ER-22C) RII with reference to pay drawn in the ex-cadre post. This Rule has subsequently been amended vide Rule 2017(ER-22)RII and by virtue of this amendment Railway Board's orders contained in letter 20.5.61 have become obsolete. Accordingly, the pay of the Railway Servants whose pay was fixed in terms of earlier orders prior to amendment, was ordered to be corrected vide Railway Board's letter 16.5.73. However, in order to avoid hardship, it had been decided(as per that letter) that the difference if any, between the pay as already fixed under previous Rule and the pay now fixed under revised Rule was to be treated as personal pay to be absorbed in future increments. Obviously, this letter has no relevance in so far as the applicant's case is concerned, who was posted to the ex-cadre post in 1979 i.e. long after 1973 when the amendment referred to supra had already taken effect.

7. Now, let us look at Railway Board's letter dated 7.8.86 which was in response to G.M/P. Northern Railway's letter dated 21.2.85 seeking clarification whether benefit of fixation of pay in a cadre post could be given with reference to pay drawn in the ex-cadre post. This was in the context whether staff in the construction department were holding ex-cadre posts. It was clarified by the Railway Board vide letter dated 7.8.86 that posts in construction department are to be treated as ex-cadre posts for the purpose of pay fixation and that the benefit of pay drawn in

such posts would not be admissible in cadre post.

8. In view of such clarifications, we are of the considered view that reliance on these letters by the learned counsel for the applicant, in support of applicant's case was totally misplaced. In fact, the letter of 1973 makes it abundantly clear that pay fixation after being posted back to the parent department from ex-cadre post has to be done strictly as per fundamental rules. Because of these reasons, the claim of the applicant fails and his pay after being reverted to the parent cadre cannot be protected by grant of personal pay. Action of the respondent in fixing the pay of the applicant w.e.f. 29.9.94 is within the parameters of rules and we do not find any ground to interfere. The claim of the applicant has no merits and is liable to be dismissed.

9. We, therefore, dismiss the OA as having no merits. No order as to costs.



[Signature]

(A.P. Nagrath)
Admn. Member

[Signature] 21/3/2001

(A.K. Misra)
Judl. Member

Received copy

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Part II and III destroyed
in my presence on 22-3-07
under the supervision of
section chief as per
order dated 19/2/07

[Signature]
Section officer (Record)