

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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JODHPUR BENCH, JODHPUR

Date of order: 7/9/2001

OA No.23/99

Sunil Kumar Sanghi S/o Shri O.P. Sanghi, working as A.A.P.F. Section W/U Divisional Account Officer, Northern Railway, Jodhpur R/o Plot No.59 Masuria Section-7, Near Power House Road, Jodhpur.

APPLICANT.

VERSUS

1. Union of India through the General Manager, Northern Railway, Head-quarter Officer at Baroda House, New Delhi.
2. The Divisional Account Officer, Northern Railway, Jodhpur.

R.A. & C.A.O, Northern Railway Baroda House,
New Delhi.

4. F.L. Meena, Senior S.O. Traffic Accounts,
Northern Railway, Jodhpur.

RESPONDENTS.

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None present for the applicant.

Mr. S.S. Vyas, Counsel for the respondents 1 to 3.
Mr. J.K. Kaushik, Counsel for the respondent No.4.

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

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

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ORDER

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

The applicant Sunil Kumar Sanghi is seeking pay protection or in the alternate, stepping up of his pay at par with respondent No.4 Shri F.L. Meena. The applicant admits that he had earlier filed an OA No.90/94 seeking the same relief and the same was disposed of vide order dated 14.12.95. The respondents have been directed by that order of the Tribunal to review the adjec promotion given to respondent No.4, and if

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they came to the conclusion that the same was to be continued then the applicant Sunil Kumar Sanghi was also entitled to the same benefit. The applicant further admits that in compliance of these orders, the respondents issued the letter dated 23.10.96 by which the benefit of adhoc promotion granted to respondent No.4 w.e.f. 10.4.90 was ordered to be withdrawn. The applicant also admits vide order dated 14.11.96, the respondents decided to refix the pay of respondent No.4 as a consequence of the order dated 23.10.96.

2. Written submission have been filed on behalf of the applicant. We have perused these carefully as also the averments made in the OA and reply of the respondents.

3. We had heard the learned counsel for the official respondents and also respondent No.4. It was stated by the learned counsel that the respondent No.4 had separately filed an OA challenging the action of the respondents of making recoveries from his pay which had been started from the month of July, 2000 in implementation of the order dated 14.11.96. The learned counsel for the official respondents stated that the benefit of adhoc promotion given to respondent No.4 had already been withdrawn, and thus, this application has become infructuous.

4. In view of the letters dated 23.10.96 and 14.11.96 having been brought in record by the applicant himself, we are not able to appreciate as to which further order has given rise to any fresh cause of action in favour of the applicant. Only ground taken by the applicant is that despite having issued these orders dated 23.10.96 and 14.11.96, these have not been given effect to, and thus, the cause of action continues because the respondent No.4 has continued to enjoy the benefit of promotion in his pay fixation and non-recovery from his pay.

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and the payments made to him on the basis of adhoc promotion wrongfully given to him.

5. We find that the applicant had raised this plea earlier also when he filed contempt petition No.45/96, on the ground that the respondents had not complied with the directions of the Tribunal in OA No.90/94. This contempt petition came to be decided on 11.2.98. In para 3 of the order, it was specifically recorded as under:-


"It is borne out by Annexure R/1, dated 23.10.96, that the Staff Office Order No.135 dated 10.4.1990, by which the benefit of adhoc promotion as Accounts Assistant was granted to Shri F.L. Meena has been withdrawn. His pay was to be refixed accordingly."

6. Noting the fact that the order of the Tribunal had been complied with, the contempt petition was dismissed. Obviously this means that the Tribunal had given a finding that the adhoc promotion granted to Shri F.L. Meena had been withdrawn. The same fact has been stated before us by the learned counsel for the respondents. We have also separately decided the OA No.23/99 filed by Shri F.L. Meena respondent No.4, who had challenged the order of recovery made from his salary consequent to re-fixation of his pay. This also establishes that the order of the Tribunal had been fully implemented and that pay of respondent No.4 in this OA had actually been refixed. With these facts, obviously no cause of action survives in favour of the applicant and his application is liable to be dismissed.

7. We, therefore, dismiss the OA. No order as to costs.

APN
(A.P. Nagrath)
Admn. Member

AM/7/91/201
(A.K. Misra)
Judl. Member

Received
D. K. A. C. H.
12/09/2001

RCG
D. K. A. C. H.
12/09/2001
Copy Dangler sent to the applicant
Date 10/03
Letter with remittances
AC
28/11/2001

Part II and III destroyed
in my presence on 18/10/02
under the supervision of
section officer () as per
order dated 13/10/02

N.G.K.
Section officer (Recd.)