

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Third day of December, two thousand three.

O.A. No. 120/2002

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

The Hon'ble Mr. G.R. Patwardhan, Administrative Member.

S.B. Chatterji,
S/o Shri L.N. Chatterji,
r/o Plot No. 2, Man Mahal Colony,
Air Force Road,
Jodhpur.

: Applicant.

Applicant appeared in person.

Versus.



1. The 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,
Jaipur.
4. Senior Divisional Personnel Officer,
Northern Railway,
Divisional Railway Manager's Office,
Jodhpur.
5. The Divisional Signal and Telecommunication Engineer,
Northern Railway, Divisional Railway Manager's Office,
Jodhpur.

: Respondents

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

ORDER

Per Mr. J.K. Kaushik, Judicial Member.

Mr. S.B. Chatterji, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

(A) The order No. 893/E/P/LC/256/98/9 dated 29.03.2001 issued by DPO, Northern Railway, Jodhpur, may be quashed for grant of Higher Pension. The higher payment of salary for the period by granting increments for 20.06.88 to 09.08.90 with interest - @ 18% per year may kindly be granted since 20.06.88.

(B) The period from 20.06.88 to 09.08.90 may be regularised as duty as per Annex. A/9 and payment of Salary with interest @ 18% may be granted with order for revision of pension as the petitioner has retired since 28.02.91.

(C) In the alternative the period may be treated as leave due from 20.06.88 in the order of LAP, HLAP, and Leave Extra Ordinary in that order and grant payment of Higher Salary by granting increments. Also interest @ 18% may be granted with effect from 20.06.88 as the matter has been delayed intentionally by the respondents in granting higher pension despite order by the Hon'ble Tribunal.

2. Skipping the unnecessary details, the relevant facts of the case are that the applicant has travelled to this Tribunal on a number of times and finally his case was decided vide judgement dated 31.01.2001, Annex. A.3 in the following terms;

"15. For the reasons, we pass the order as under:

The O.A. No. 256/98, C.P. No. 6/98 and the M. A. No. 200/2000, are hereby dismissed. However, on the basis of the impugned orders at Annex. A.4 dated 17.09.97 and Annex. A.9 dated 17.04.97, if the pension of the applicant requires to be modified and revised, the same shall be done within a period of three months from the date of receipt of a copy of this order. No costs. "

3. We have heard the applicant who appeared in person and the learned counsel for the respondents at a considerable length and have carefully perused the records of this case.

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4. At the very outset the learned counsel for the respondents has strived hard and tried to impress the main ground of defence that the O.A is hit by the doctrine of res judicata. He has next contended that there was a typographical error in the very order passed by this Tribunal in as much as Annex. A.4 dated 17.04.97, was not at all impugned order in the earlier O.A. The position regarding the res judicata was cleared on the earlier occasion. However, no specific order was passed and this Bench of the Tribunal was satisfied that the doctrine of res-judicata does not come in the way of deciding this O.A, since we are only prepared to take this OA as execution petition, wherein we are not required to adjudicate and decide any legal right of the parties.

5. The applicant has embarked mainly on the implementation of Annex. A.9 and strenuously submitted that this was the decision of the competent authority and as per the Tribunal's order, the same is required to be implemented by the authorities and if the same had been implemented that would have given upward revision of his pensionary benefits. He also submitted Annex. A.8 is no order at all. However, it is not in dispute that Annex. A.8 was an order Annex. A.4 to the earlier O.A and the same was the only impugned order and also the O.A came to be dismissed.

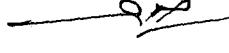
6. To impart substantial justice and to go into the root of the problem, we directed the respondents to make available the relevant records in regard as to how Annex. A.8 came to be



issued and whether Annex. A.9 was at all considered by the respondents. Further information was also called for as to whether the D.S.T.E. was competent to sanction leave to the applicant. The respondents were fair enough to produce the relevant records and also supplied the required information. It has been admitted that DSTE was competent to sanction leave to the applicant.

7. We were taken through the records and the relevant file. We have send that after the issuance of Annex. A.9 the matter was taken up to the Divisional Railway Manager and after considering all the facts, the same culminated into the issuance of Annex. A.8 and that is the impugned order. The question to be considered is whether the implementation of the said order gives rise to upward revision in the pensionary benefits and whether any revision of pension of the applicant is required to be done. We have taken valuable assistance from the applicant for considering and examining Annex. A.8. The applicant has fairly submitted after examining each point, the same would not affect pensionary benefits at all. In this way of the matter, we do not find any thing wrong on the part of the respondents in implementing the directions given by this Tribunal.

8. In the premise, the O.A is devoid of any merit and the same stands dismissed. No costs.


(G.R. Patwardhan)
Administrative Member


(J.K. Kaushik)
Judicial Member.

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