

I/S

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR

Original Application No.137/2004

Date of Decision : 12.08.2004

CORAM:

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

The Hon'ble Mr. M.K. Misra, Administrative Member.

1. Jugal Kishore S/o Sh. Ram Niwas ji, aged about 48 years, R/o Plot No. 67, K.K. Colony, Basani Ist Phase, Jodhpur(Raj.)

.....Applicants.

Rep. By S.K. Malik: Counsel for the applicants.

**versus**

1 Union of India through the General Manager, Western Railway, Jaipur, (Rajasthan).

2 Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur, (Rajasthan).

1. Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur, (Rajasthan).

....Respondents

Rep. By N.K. Khandelwal: Counsel for the respondents No. 1 & 3.

**ORDER**

Mr. J.K. Kaushik, Judicial Member.

Shri Jugal Kishore has filed this O.A. with the prayer that the respondents may be directed to grant the benefits of second financial up-gradation to the applicant under ACP scheme on the completion of 24 years of service with effect from 19.9.2003 alongwith interest and exemplary costs.

2. The case was listed for admission and with the consent of the learned counsel for the parties the same was taken up for final disposal at the stage of admission, keeping in view that the pleadings are complete and there is an urgency in the matter. We have heard the learned counsel for the parties have carefully perused the records of this case.

3. The facts and circumstances of this case is that the applicant was appointed as a Casual Labour in the year 1973 and he came to be regularized with effect from 19.9.79 in Group 'D'. Thereafter, he was promoted to the post of Helper Khalasi in the pay scale of Rs. 800---1150 with effect from Sept. 1990.

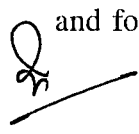


Subsequently due to closure of the Loco Stream, he came to be absorbed in Electrical Department . He has rendered 24 years of service after his regularisation and demanded due benefits of the second financial up-gradation under ACP scheme, but the same was not given to him. The applicant made a representation dt. 24.3.04 (Annex. A/2), an finding no response filed this O.A.

4. The respondents have contested the case and have filed with a detailed replied to the O.A. and through the reply they have set an example of the fairness, inasmuch as the applicant has been granted the relief vide order dt. 28.7.04. Whereby the applicant has been granted the benefits under ACP scheme from 15.3.01. However, in their reply the respondents have taken a very specific objection that the applicant has filed this O.A. without waiting for the result of his representation and he has not waited for a period of six months which he was required as per Section 20 of the Administrative Tribunal Act.

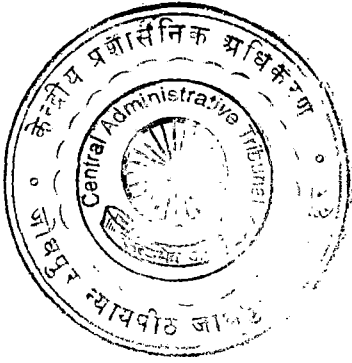
5. The learned counsel for the applicant has reiterated facts and grounds raised in the pleadings of the applicant. On the other hand, the learned counsel for the respondents has stressed on the preliminary objection regarding maintainability of this O.A. and has simultaneously submitted that the applicant has been granted the due relief from a much earlier date than even that of the demands of the applicant. The applicant only demanded the benefits from 19.9.03. But he has been given the said benefits from 15.3.01. It has also been submitted that half of his service which was rendered during the period from the date of grant of the temporary status to the date when he was absorbed against the regular establishment as per the Railway Board RB No. 69/04 has been reckoned towards the grant of the benefits under ACP scheme. The factual position is acceptable to the learned counsel for the applicant.

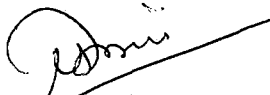
6. We have considered the rival submissions made on behalf of both the parties. While it is true that the applicant has been granted the due benefits and the respondents have been more than fair inasmuch as the relief has been granted from the due date which even the applicant has never anticipated or demanded and for that the respondents deserve appreciation. As regards the other grounds

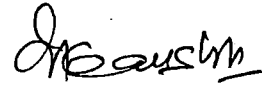




since the O.A. has become infructuous and there is hardly any need to have an exercise regarding availing of the alternative remedy and filing the application after waiting for six months is only an academic interest and we shall examine the same in same appropriate case. The issue shall remain open. In the premises the O.A. stands dismissed having become infructuous. No costs.



  
( M K Misra )  
Administrative Member.

  
( J K Kaushik )  
Judicial Member.

LG

R/C

(K) kh.  
16/E

Lee  
S.K. Malile  
Adu  
16/8/04

Part II and III destroyed  
in my presence on 25/10/2013  
under the supervision of  
section officer (S) as per  
order dated 18/10/2013  
J.H. Gm  
Section officer (Records) 25.10.2013