

CENTRAL ADMINISTRATIVE TRIBUNAL

OA No. 179/2010

Jodhpur, this the 28th October, 2013.

CORAM:

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Hon'ble Ms. Meenakshi Hooja, Member (A)

Kishan Ram S/o Shri Lachman Ram aged about 54 years, Gangman under Permanent Way Inspector, Lalgah, North Western Railay, Bikaner Divisiona, Resident of V.P.O. Sawantsar, Post Office Sudasar, District Bikaner.

..Applicant

(Through Adv.Mr. H.K.Jain)

Versus

1. Union of India through General Manager, North Western Railway, Jaipur.
2. The Divisional Personnel Officer, North Western Railway, Bikaner.
3. Assistant Divisional Engineer, Lalgah, North Western Railway, Bikaner Division, Bikaner.

...Respondents.

(Through Advs.Mr. Manoj Bhandari & Mr. Aaditya Singhi)

ORDER

Per K.C.Joshi, Member (J) :

This application has been filed by the applicant under Section 19 of the Administrative Tribunal Act, 1985 seeking the following reliefs :-

- (i) That this Hon'ble Tribunal may kindly be pleased to direct the respondents to grant yearly increments from the date of grant of temporary status and to pay the difference of wages of this period from 6.4.1973 till date with interest at market rate.
- ii) That the respondents further may kindly be directed to fixed the pay of the applicant accordingly in the regular service from the date of absorption after granting yearly increments from i.e. 6.4.73 and pay the differences of wages arising therefrom till date.
- iii) That the respondents may be directed to give benefit of leave.
- iv) That the respondent may further kindly be directed to give all the consequential benefits to the applicant from the grant of temporary status i.e. 5.4.1973 till date.
- v) That any other direction, or order which this Hon'ble Tribunal deems just and proper under the facts and circumstances of this case may kindly be passed in favour of the applicant.
- vi) That the costs of this application may be awarded to the applicant."

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2. It has been averred in the OA that the applicant was appointed as a Casual Labour under the PWI, Bikaner and he attained temporary status on 05.04.1973 as per Rule 2001 of Indian Railway Establishment Manual (IREM) Volume II but the non-applicant granted the same to the applicant from 21.04.1981 and not from 05.04.1973. The respondent-department conducted a screening for regularization of the service of the casual labours and the applicant was declared successful and was regularized and posted under the PWI, Bikaner on regular basis in the grade of Rs. 775-1025. The applicant submitted a representation to the department for granting him the benefits accruing to him after attaining the temporary status from 05.04.1973. As no relief was granted by the respondents the applicant preferred an OA No. 228/2007 before this Tribunal and the Tribunal was pleased to dispose of the OA of the applicant along with other similar cases and gave directions vide order dated 19.09.2007 to the respondents to look into the applicants' OA and decide the representation of the applicants. After the decision in the OA, the respondents passed the order on 08.12.2007 whereby the claim of the applicant was partly allowed and temporary status was given to the applicant from 06.04.1973 and also the difference of wages was calculated as Rs. 1,273/- and ordered to be paid as per their calculation. It has been averred however that the order passed by the respondents is not in accordance with the letter and spirit of the order of Tribunal and the benefits of the pay scale and annual increments and leave benefits have not been given. The applicant also served a notice for demand of justice but, the respondents have failed to do justice with the applicant and did not re-determine, revise the pay and pay the consequential benefits

to the applicant payable on the grant of temporary status from 05.04.1973 and hence this OA.

3. In reply it has been stated by the respondents that the OA has been filed almost three years after the cause of action arose and from the factual and legal points also it does not deserve to be allowed. It has been stated that the applicant was initially appointed as a casual labour (gangman) on 07.12.1972 under the PWI/Bikaner and he was not continuously in service and as per the Service Rules 2001 he is not entitled to attain the temporary status without putting 120 days of continuous service. The applicant was granted temporary status on 09.01.1987 on completion of 120 days. It has been further submitted that as per the Service Rules and as the service record the revised CPC was granted w.e.f. 06.04.1973 vide office letter dated 18.12.2007 and according to the revision of the CPC, the refixation of pay has been done vide letter dated 18.12.007 and arrears of difference of pay w.e.f. 16.4.1973 to 31.12.1987 amounting to Rs. 1273/- was paid and a calculation-sheet has been submitted as Annex.R/1. It has also been stated that in the OA No. 228/2007 filed by the applicant and others before this Tribunal, the respondents were directed to decide the representation of the applicant within a reasonable time by detailed speaking order vide Tribunal order dated 19.01.2007 and in compliance of the same, the respondents passed the order on 08.12.2007 and the CPC was revised w.e.f. 06.04.1973 instead of 11.1.1987 and according to the revision of CPC the pay has been refixed from 06.04.1973 to 31.12.1987 and all consequential benefits like refixation of pay, LAP, HAP have since been granted and paid as per the extant rules to the

applicant and as there has been no infringement of the legal rules, the OA filed by the applicable is liable to be dismissed.

4. Heard both the parties. The counsel for the applicant submitted that in compliance to the order of this Tribunal dated 19.09.2007 passed in OA No. 228/2007 the services of the applicant were treated regular w.e.f. 06.04.1973 and as per the reply contained in para No. 19 of the counter, the pay of the applicant has been fixed w.e.f. 06.04.1973 and it has also been claimed that by way of granting regular annual increments, arrears of difference of pay worked-out from 6.4.1973 to 21.12.1987 to an amount of Rs.1273/- which was paid to the applicant. However, it was contended that regular increment has not been actually sanctioned to the applicant and had the annual increments been granted to the applicant, the salary would have been different from that what has been contained in Annex.A/1 because in Annex.A/1 it has not been shown that annual grade increments were sanctioned to the applicant. The counsel for the applicant further contended that the applicant is required to be paid the arrears after granting the annual grade increment w.e.f. 06.04.1973 and this has not been complied with by the respondents.

5. Per contra, the counsel for the respondents contended that as per the calculation-sheet Annex.,R/1, the applicant has been paid all the arrears as per the judgment of this Tribunal passed in the earlier OA. No. 228/2007.

6. We have considered the rival contentions and also perused the relevant material available on record.

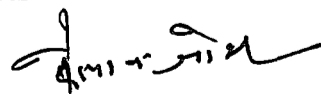
7. As per Annex.A/1, it is clear that no annual increment has been sanctioned to the applicant because it has not been shown in Annex.A/1

that regular increments have been sanctioned to the applicant. Contrary to it the salary has been shown from 06.04.1973, 17.06.1974, 18.07.1974 and further different dates appearing with last being 11.01.1987. According to us there is a difference between the calculation-sheet provided by the applicant (Annex.A/1) and by the respondents (Annex.R/1) and what has been averred in the application of the applicant. In the entire facts and circumstances of the case, there is a dispute of fact regarding the actual pay fixed to the applicant after granting the annual grade increments and what has been paid to the applicant, therefore we are proposing to dispose of this application with certain directions.

8. The application is disposed of with the direction that the applicant shall file a detailed representation with a calculation sheet regarding the pay, increments and other benefits due to him, to the respondent department within a month from the date of the receipt of this order, and the respondent department shall examine that calculation sheet in the light of orders at Annexes. A/6 and A/7 and any other relevant circular and if admissible the regular increments shall be granted to the applicant along with other consequential benefits in the context of the earlier order dated 19.09.2007 of this Tribunal in OA No. 228/2007. The respondents shall decide the representation within four months from the date of receipt of the representation and further if any grievance remains with the applicant, he can approach this Tribunal, if so advised. Accordingly, this application is disposed of with no order as to costs.



[Meenakshi Hooja]
Administrative Member



[Justice K.C. Joshi]
Judicial Member