

Central Administrative Tribunal
Calcutta Bench

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OA No.817 of 97

Dt. of Order: 5.2.2002

Present: Hon'ble Mr. B.P. Singh, Member(A)
Hon'ble Mr. Kuldip Singh, Member(J)

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ASHOKE KR MAJUMDAR & ORS

VS

E. RLY.

For the Applicant : Mr. P.K. Ghosh, Counsel
Mr. S.N. Mitra, Counsel.

For the Respondents: Mr. P.K. Arora, Counsel

ORDER

The applicants had filed this OA seeking the following relief:

*To direct the respondents to fix pay of each of the applicants in terms of Rule 1313 RII in higher grades posts in time scale in which each of the applicants was promoted w.e.f. 13.5.93 with all consequential benefits and to pay to each of the applicants the difference of pay, allowances, etc as is due and payable as arrears in consequence to such fixation of pay together with an interest @ 18% per annum thereon from 13.5.93 till the date on which the amount is actually paid;

An order to direct the respondents to draw annual increment in terms of Rule 1318 RII in respect of each of the applicants on 1.5.94, 1.5.95, 1.5.96 and 1.5.97 in the higher grades promotional posts in time scale of pay in which each of the applicants have been admitted to have been promoted and working since 13.5.93 and to pay the difference of pay and allowance etc with all consequential benefits.*

[Signature]

2. The facts in brief are that the applicants were promoted vide order dated 11.8.95. Though the applicants have been granted promotion but they have not been paid salary as per the promotion granted nor their pay was fixed in the higher post in which they were granted promotion. Thus the applicants have filed the present OA.

3. The OA is being contested. It is contended by the learned counsel for the respondents that during the pendency of the OA, the applicants were released the normal dues as on the higher post in accordance with the pay fixed as per rules. It is also contended that while the OA was pending another letter was passed by the department dated 10.9.98 vide which the department had stated that some procedural lapses as has been detected in selection and the promotion against the restructuring w.e.f. 13.5.93 was cancelled by the order of the competent authority. On receipt of this order the applicants filed MA 450/98 and the said MA was disposed of by this Tribunal by directing the respondents to maintain status quo as on that date till the disposal of the OA, and hence the applicants status-quo is being maintained as per the court's order.

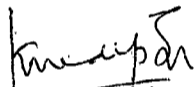
4. Today, when the case was taken up for hearing, the learned counsel for the applicants submitted that since in the MA they had prayed for quashing of the order dated 10.9.98 so it ~~was~~^{stands} decided as the applicants had already stated getting their dues while the OA was pending and thereafter by virtue of the statusquo order they are continuing to receive the pay in the higher post. The counsel for the respondents has taken an objection that the relief claimed for quashing of the order dated 10.9.98 was not claimed in the OA. Moreover it is a subsequent order which gave

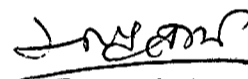
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subsequent cause of action and the applicants should come with a separate OA.

5. On considering the statement made by the rival parties, we are of the view that by filing MA 450/98 the applicants made a prayer for quashing of the order dated 10.9.98 which is a subsequent cause of action and in the main OA this order cannot be impugned as at that time this order was not in existence. So we are of the view that this OA may be disposed of at this stage itself with liberty to the applicants to assail the order dated 10.9.98 by filing a fresh OA and the question of limitation will not be taken up ^{as objection is} ~~for consideration~~ for filing fresh application. The statusquo granted will continue for a period of two months from today. The OA stands disposed of.


Member (J)


Member (A)

mb.