

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA 658/97

Present : Hon'ble Mr.B.V. Rao, Member(J)  
Hon'ble Dr.A.R. Basu, Member(A)

Manik Kumar Roy

-Vs-

- 1) Union of India, service through General Manager, S.E. Rly, Garden Reach, Calcutta – 43
- 2) General Manager, S.E. Rly, GRC, Calcutta – 43
- 3) Dvl. Rly Manager, S.E. Rly, Chakradharpur
- 4) Sr.DCM, S.E. Rly, Chakradharpur

For the applicant : Mr.B.C. Sinha, Counsel

For the respondents : Mr.S. Choudhury, Counsel

Date of Order : 22.9.2006

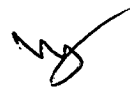
ORDER

Mr.B.V. Rao, JM

Shri Manik Kr. Roy, retired Booking Clerk, S.E. Rly, Rourkela has filed this OA seeking the following reliefs :

- a) To direct the respondents to treat the period of deemed suspension from 7-8-91 to 31-1-93 as spent on duty, draw full pay and allowances and treat the said period as qualifying service for Pensionary Benefits.
- b) To direct the respondents to restore the pay of the applicant to Rs1780/- and grant increments for two years 1991 & 1992 and taken for pensionary benefits.
- c) To direct the respondents to recalculate the all pensionary benefits and other consequential benefits accordingly.

2. The brief matrix of the case according the applicant are that he was appointed on 4-9-58 as Commercial Clerk at Kharagpur and thereafter he was promoted to the post of Enquiry cum Reservation Clerk Grade II and thereafter transferred to Rourkela on 17-11-87 in the same capacity. He further stated that the respondents issued an order of compulsory retirement vide order dated 7-5-91. Being aggrieved by the said order of



compulsory retirement he filed OA being No.166/92 before this Bench and the same was disposed of by this Tribunal on 25-2-94 with the following order :

“We, therefore, set aside the report of the Enquiry Officer, the order of the disciplinary authority as well as of the appellate authority and direct that the enquiry shall proceed from the stage upto the date it was pending as on the date on which the enquiry report was submitted.”

... ..

“We also direct that the applicant shall be reinstated in service with effect from the date on which he was compulsorily retired and from that date of his compulsory retirement till the conclusion of the enquiry with the passing of the order of the disciplinary authority, the authority may place the applicant under deemed suspension in accordance with the rules and he shall be paid appropriate subsistence allowance in accordance with the rules within a period of two months from the date of communication of this order. The respondents shall also pay to the applicant Rs1000/- by way of costs of this proceeding”.

Finally the applicant retired from service on 31-1-93 on superannuation. He further stated that his retrial benefits has been calculated on the basic pay of Rs1510/- instead of Rs1780/- and further two increments which fell due in 1991 and 1992 have not been taken into account for the purpose of benefits consequent on the punishment being set aside by Sr.DCM, S.E.. Rly, CKP vide letter dated 16-2-95. Hence the applicant approached this Tribunal to ventilate his grievance.

3. The respondents contested the matter by filing a reply stating that the applicant was drawing pay of Rs1510 in scale of Rs975-1540/- from 5-1-89 before being compulsorily retired from service w.e.f. 7-5-91 he was undergoing punishment for reduction from Enquiry cum Reservation Clerk on Rs1720 in scale of Rs1400-2300 (RPS) to booking Clerk on Rs1510/- in scale of Rs975-1540 (RPS) with cumulative effect for five years in two spells which continued till superannuation. Therefore he was ineligible to get annual increment till retirement. They further stated that consequent upon treating the period of suspension as duty, salary for the suspension period from 8-5-91 to 31-1-93 amounting to Rs30520/- has already been paid to the applicant on 25-4-96 and he was paid already all retirement dues on the basis of qualifying service of 32.5 years. They further stated that in pursuance of the order and judgement dated 24-2-94 in OA 166/92 the applicant was reinstated in service and he was placed under deemed suspension from 8-5-91 till 31-1-93. The enquiry officer prepared fresh inquiry report



and after due process of law, a fresh punishment notice was issued to the applicant on 24-8-94 retiring him compulsorily from 7-5-91. He preferred an appeal against the said punishment and the punishment order was set aside by the appellate authority by order dated 16-2-95. As a consequence of the appellate order, the period of deemed suspension was treated as duty and the arrears of amount has been paid to him on 25-4-96. They further stated that though the order of compulsory retirement of the applicant was set aside by the appellate authority, but the punishment imposed upon him in two other separate cases was in operation from 5-1-89 by reducing him for 5 years from the post of Enquiry cum Reservation Clerk Grade I Rs1400-2300 to Booking Clerk in scale of Rs975-1540 on pay of Rs1510/- with cumulative effect was not set aside and hence the applicant stood retired from service on 31-1-93 on pay of Rs1510/- in scale of Rs975-1540/-. In view of the facts stated in the reply, the applicant is not entitled to any relief and the OA is liable to be dismissed with costs.

3. Heard both the parties.
4. The learned counsel for the applicant reiterated the facts and he repeatedly stated before us that the applicant is entitled to relief as prayed in the application and he prayed to grant the reliefs as prayed by him.
5. Per contra the learned counsel for the respondents opposed the submissions and prayer for the learned counsel for the applicant. He stated before us that the order and judgement dated 25-2-94 in OA No.166/99 was duly complied by the authorities and all the arrears were paid to him which he is entitled as per law. He mainly contended that though the punishment of compulsory retirement was set aside by the appellate authority but he undergone punishment in two separate cases which was in operation from 5-1-89 by reducing him for 5 years from the post of Enquiry Cum Reservation Clerk Grade I to Booking Clerk on pay of Rs1510/- with cumulative effect. He further stated before us that the period of deemed suspension from 7-8-91 to 31-1-93 was treated as on duty and the full pay and allowances was paid and his pensionary benefits was also paid after fixing his pay as Rs1510/- in accordance with rules.

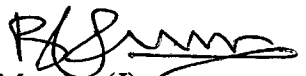


6. We have considered the submissions and arguments of both the parties. We have gone through the pleadings and material on records.

7. After going through the material on record we find that the applicant was undergoing a punishment reducing him for 5 years from the post of Enquiry cum Reservation Clerk to Booking Clerk on pay of Rs1510/- in two other separate cases. After a careful consideration to the submissions of both the parties, we find no merit in the OA.

Accordingly, the same is dismissed. No costs.

  
Member(A)

  
Member(J)