

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.340 of 1997

Present: Hon'ble Mr. D. Purkayastha, Judicial Member

Hon'ble Mr. G. S. Maingi, Administrative Member

Badal Kumar Burman Roy, S/o late Jogendra
Chandra Burman Roy residing at Vill.
Talipar, P.O. Dankuni (Mrigala), Dist.
Hooghly, Pin-711224

... Applicant

VS

1. Union of India, service through the
Secretary, Ministry of Railway, New
Delhi-110 001
2. General Manager, Eastern Railway,
17, Netaji Subhas Road, Calcutta-1
3. Divisional Railway Manager, Howrah
Division, Eastern Railway, Howrah

... Respondents

For the Applicant(s): Ms. B. Ghosal, counsel

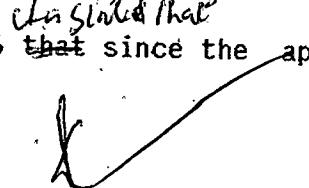
For the Respondents : Mr. R. K. De, counsel

Heard on 02.05.2000

: : Date of order: 02.05.2000

O R D E RD. Purkayastha, JM

Applicant by this application sought for a direction upon the respondents to cancel and withdraw the order dated 10.5.96, Annexure, 'E' to the application by which the applicant's prayer for redressal of anomalous fixation of pay was rejected on the ground that since the applicant was not a party to the court cases being O.A. 1086/88 and O.A. 73/90 wherein the Hon'ble Judges have ordered that the benefit of promotion and pay fixation to be allowed to the applicants either in service or retired. The applicant retired from the service with effect from 1.8.96 and he made a representation to the authorities for removing the anomalies on the ground stated in the representation. But the respondents rejected the representation of the applicant stating the ground in the letter dated 10.5.96, Annexure 'E' to the application. On the ground of refusal as stated in the letter dated 10.5.96 *that since the applicant did*



not approach the Tribunal for similar relief, therefore, he is not entitled to get that benefit; we find that the matter has been settled by the Hon'ble Apex Court in the case of Inder Pal Yadav and others vs. Union of India & Ors. reported in 1985(2) SLR 248 wherein it has been held as below:

"Those who could not come to the Court need not be at comparative disadvantage to those who rested here. If they are otherwise similarly situated they are entitled to similar treatment, if not by anyone else at the hands of this Court."

From this judgment we find that the reason disclosed by the respondents for non-consideration of the claim of the applicant is not sustainable. In view of the judgment passed by the Hon'ble Apex Court mentioned above, if the applicant is found similarly situated along with the applicants of OAs 1086/88 and 73/90, the applicant ought to have been ~~entitled to get~~ ^{given} the relief. Therefore, we set aside the order dated 10.5.96, Annexure 'E' to the application. However, it is found that the applicant made a detailed representation, Annexure 'F' to the application, to the authorities on 13.1.97 and in para 4 of the said representation he disclosed the reason of anomaly. We do not find from the record that that point has been considered by the respondents. Since the applicant is a retired person, therefore, that prayer of anomaly should be considered by the respondents expeditiously.

2. In view of the aforesaid circumstances we find that it would be appropriate on our part to direct the respondents to dispose of the representation of the applicant dated 13.1.97 in the light of the judgment mentioned above within three months from the date of communication of this order. If the decision is found in favour of the applicant then he should be paid all the benefits within another two months from the date of decision. With this observation we dispose of this application awarding no cost.

G. S. Maingi
12.5.2000

(G. S. Maingi)

MEMBER (A)

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D. Purkayastha
(D. Purkayastha)

MEMBER (J)