

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

CALCUTTA

No.O.A.347 of 1997

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

SUMAN KUMAR & ORS.

VS

UNION OF INDIA & ORS.

For the applicant : Mr. B. Chatterjee, counsel

For the respondents : None

Heard on : 15.2.99

Order on : 15.2.99

O R D E R

The question is whether the applicants<sup>who</sup> were promoted to the post of Elec. Goods Driver from the post of Assistant Driver are entitled to get yearly increment as per rules. According to the applicants they were promoted to the post of Electric Goods Driver in the scale and Grade of Rs.1350-30,1440-40-1800 (EB)-50-2200/- (vide Annexure 'A' to the app.) and accordingly they joined their service as Elec. Goods Driver. But the respondents did not grant annual increments to the applicants in the scale of ~~Rs.~~ mentioned above. According to the applicants they are entitled to get yearly increments on completion of one year service from the date of joining the said post. They filed representations to the authorities stating their claim. But the authorities did not act and ultimately by a letter dated 9.2.95 the Senior Divisional Personnel Officer, Asansol refused their claim. Therefore, the applicants approached this Tribunal for getting proper relief as per rules.

2. None appears for the respdts. today. But it is found that the respdts. filed written reply to the O.A. denying the claim of the applicants. It is stated by the respdts.

that the applicants are working as Elec. Goods Driver in the Scale of Rs. 1350-2200/- (RP) and the post of <sup>Elec.</sup> Goods Driver is filled up by promotion from the post of Shunter with two years' service. But due to non-availability of Shunter with two years' service, the condition of minimum service of two years in the immediate lower grade for promotion to the post of <sup>Elec.</sup> Goods Driver was relaxed by obtaining the approval from the Railway Board vide Railway Board's letter No. E(NG) 1-84/PM7/43 dated 1.4.87. Accordingly, the applicants were promoted to the post of Goods <sup>Elec.</sup> Driver before completion of their two years' service in the immediate lower grade. As the applicants were promoted as Goods Driver before completion of two years' service in the immediate lower grade, their annual increment on promotion as Goods Driver in the scale of Rs. 1350-2200/- has been granted after one year from the date of completion of two years' service in the lower grade. This was done as per instruction of the C.P.O./Eastern Railway communicated under letter dated 14.12.88. So, the application is devoid of merit and is liable to be dismissed.

3. Id. counsel Mr. Chatterjee appearing on behalf of the applicants submits that yearly <sup>Rule</sup> increment is a routine <sup>nature or increment</sup> as per service <sup>condition</sup> and as a matter of course, <sup>the</sup> annual increment on pay is <sup>the</sup> given on completion of one years service in the respective grade unless the annual increment is withheld by the respdts. following the departmental procedure. It is submitted that it remains undisputed from the side of the respdts. that the applicants have been appointed to the said post by promotion due to non-availability of the persons in the post of Shunter. Since the applicants were promoted to the said post of Elec. Goods Driver from the cadre of Assistant Driver in the department <sup>for administrative exigency</sup> and have been performing duty in that cadre of Elec. Goods Driver from the date of joining to the said post, their yearly increments cannot be withheld by the respdts. without holding any departmental proceeding against

them because withholding increment on pay is a punishment and that cannot be done for the reasons stated by the respdts. in their reply.

4. In view of the aforesaid circumstances, I find that the period of service in the post of Elec. Goods Driver should be counted for increment (yearly) from the date of joining to the said post. <sup>disciplinary withheld the yearly increment by</sup> Competent authority can impose punishment of withholding increment of the Government servant. But in the instant case, no punishment have been imposed upon the applicants by applying departmental rules. Their increments were withheld only for the reason that they were not promoted from the post of Shunter having two years' experience in the said post. Since the applicants were promoted to the post of Elec. Goods Driver by relaxing the departmental rules ~~in~~ due to non-availability of the Shunters, the applicants are entitled to get yearly increment on their pay from the date of joining to the post of Elec. Goods Driver. The reasons for withholding increment as disclosed by the respdts. in their reply is not sustainable and the action of the respdts. in this regard is arbitrary, illegal and violative of principle of natural justice. The respdts. <sup>dt. 14.12.88</sup> did not annex any rule or the copy of the letter <sup>by C.P.O./</sup> Eastern Railway basing upon which they denied annual increment to the applicants. Moreover, no records have been produced by the respdts.

5. In view of the above, I allow the application and the respondents are directed to grant the benefits of yearly increments to the applicants <sup>on completion of one year's service in the grade of Electric Goods Driver on the pay scale of Rs.1350-2200(RP) from the date of assuming their charge.</sup> Regarding interest as claimed by the applicants, I am of the view ~~at~~ that the applicants are not entitled to get any interest as claimed. But the benefit of increment ~~is~~ be granted to the applicants within three months from the date of communication of this order. Accordingly the application is disposed of awarding no costs.

*[Signature]*  
(D. PURKAYASTHA)