

In The Central Administrative Tribunal
Calcutta Bench

OA No.387 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

Sri Santosh Kumar Sen, son of Late B.N. Sen, aged about 61 years, Ex.GSS/NAGC, E.Rly., under the Sr. D.P.O., E. Rly., Sealdah Division, Sealdah, residing at 5/271, North Station Rd, Agarpara, Dist: 24-Parganas.

..... Applicant

- Versus -

- 1) Union of India, service through the General Manager, Eastern Railway, 17, N.S. Road, Calcutta-700 001.
- 2) The Divisional Railway Manager, Eastern Rly, Sealdah Division, Sealdah.
- 3) The Sr. Divisional Personnel Officer, Eastern Railway, Sealdah Division, Sealdah.

..... Respondents

For the Applicant : Mr. B. Mukherjee, Advocate

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

Heard on : 15-5-2000

Date of Order : 31/05/2000

ORDER

G.S. MAINGI, AM

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985. In this application the applicant has challenged non-giving and/or non-releasing the incremental benefits to him inspite of several representations submitted by him to the respondents. The applicant had also moved an application bearing No.82 of 1995 for releasing him retirement benefits. In that O.A. the order was passed on 21.6.1996 and the

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Hon'ble Tribunal had ordered that the respondents shall take into account the benefit of restructuring given to the applicant in the said post and in the said scale with effect from 1.3.93 and take appropriate steps for the disbursement of all the retirement benefits as well as arrears of pay and allowances, if any, to the applicant as per rules, less whatever amount already paid by the respondents within a period of three months from the date of communication of the order. If the applicant is not given the disbursement of the above amount within the period stipulated in the order, the respondents shall pay him interest at the rate of 10% per annum from the date due to the date of actual payment. In this O.A. the applicant has stated in para 4.3 that though the respondents paid the balance partial amount of retirement benefits but ~~also~~ ^{even} incremental benefits which was due to him in terms of CPO/CCS's Circular No. EG-259/FPC/83/86/PT-(E/19) dated 4.8.1995 as well as in terms of CPO/CCS Sl.No.54/95 have not been released and paid to him. While SL.No.54/95 has not been attached to the document with the application nor it has been produced during the course of hearing. The CPO's letter dated 4.8.95 is not readable at all. No attempt was made by the Ld. Advocate for the applicant to produce the readable copy at the time of hearing. Therefore, no advantage can be taken for interpretation of this letter. The applicant further states that according to the said Circular, he was entitled to get an increment of Rs.40/- w.e.f. 1.1.86 per month in the scale of Rs.455-700/- (Third Pay Commission) and Rs.1400-2300 as per 4th Pay Commission which was required to be paid to him while he was posted as Head Commercial Clerk at New Alipur Station without taking into account the increment due to him on 1.1.86. The applicant had retired on 31.1.94 and he had given a representation on 26.12.96 before the Divisional Railway Manager, Eastern Railway, Sealdah Division and the Sr. Divisional Personnel Officer, Eastern Railway, Sealdah Division requesting them to release and pay an interest @ 18% per annum on the retirement benefits with effect from 1.2.1994. But no action

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was taken by the respondents. The applicant has stated in para 4.14 that several persons, namely, S/Shri B.L.Bhattacharjee, A.K. Mukherjee and M.K. Chakraborty have been given the benefit of fixation in terms of the aforesaid circular dated 5.5.1995. But the same has not been granted to the applicant. The Senior Divisional Personnel Officer, Sealdah Division vide his letter bearing No. EG/B392(E/3) dated 31.12.96 disposed of the representation of the applicant dated 26.12.96 and directed the ~~applicant~~ to submit the name of at least ~~one~~ one candidate whose basic pay tallied as on 1.1.86 with the pay as well as scale of him and cooperate with the office. The applicant had given the details with the representation dated 21.2.97 addressed to the Divisional Railway Manager, Eastern Railway, Sealdah Division and this was in response to the letter dated 31.12.96 of the Senior Divisional Personnel Officer, Eastern Railway, Sealdah. Despite the details given by the applicant, the respondents failed to redress the grievance of the applicant and gave no proper reply.

2. The respondents have given reply to this application. The reply is not only incomplete but also not satisfactory. While giving reply to the various paragraphs, respondents should have given clear reply. Instead a cryptic reply has been given in para 8 of the reply relating to para 4.4 to 4.8 of the application and no specific reply has been given to paragraph 4.16 to 4.18 of the application. The respondents should have commented upon the applicant's representation dated 21.2.97. On the contrary no attempt was made to dispose of it. Rather the respondents have replied in a very mechanical manner that the application of the applicant is barred by limitation. But no justification has been given as to how the application is barred by limitation. It has also been observed that reply has been given by an Officer who is not one of the respondents; but he claims that he was fully authorised by other respondents and the Government. No such authorisation has been annexed with the reply to the application nor produced during the course of hearing which was held on 15.5.2000.

3. The application was listed for hearing on 15.5.2000 when Ld. Advocate Mr. B. Mukherjee appeared on behalf of the applicant and Ld. Advocate Mr. R.K. Dey appeared on behalf of the respondents. Both of them argued their case strenuously. But we easily conclude that no attempt has been made to give proper reply to the submission made by the applicant. We again observe that while the applicant annexed some unreadable documents with the application, the respondents have half-heartedly replied without giving proper answer to the various contentions of the applicant. It is seen that the respondents directed the applicant to disclose one name whose basic pay tallies with that of the applicant as on 1.1.86. The applicant has not disclosed only one name, he has also disclosed three names. It automatically becomes ^{obligation} responsibility of the respondents to give a suitable and proper reply to the representation made by the applicant. But that has not been done. The respondents should have endeavoured to give proper reply instead of giving half-hearted reply.

4. We have carefully considered the matter and we direct the respondents to dispose of the representation dated 21-2-1997 and 24-2-1997 of the applicant addressed to the Divisional Railway Manager, Sealdah Division within a period of two months from the date of communication of this order, if some dues are payable to the applicant and the respondents shall pay the said dues with an interest of 12% per annum from the due date to the date of actual payment. Accordingly, we dispose of the application awarding no costs.

G.S. Maingi
31.5.2000
(G.S. Maingi)
Member(A)

D. Purkayastha
31/5/2000
(D. Purkayastha)
Member(J)