

Central Administrative Tribunal, Lucknow Bench, Lucknow
O.A. No. 446/2005

This the 16th day of November, 2010

Hon'ble Shri Justice Alok Kumar Singh, Member (J)
Hon'ble Sri S.P.Singh, Member (A)

Nagendra Singh son of late Sri Maharaj Singh, aged about 45 years resident of village Ishapur Post Malihabod, District Lucknow working as Electrical Signal Maintainer Grade II, Project, in grade Rs. 4000-6000 under Senior Signal Inspector, Northern Railway, Alambagh, Lucknow.

Applicant

By Advocate: Sri K.P. Srivastava

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Deputy Chief Signal Telecom Engineer (Project) Northern Railway, Charbagh, Lucknow.
3. Senior Signal Engineer, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate: Sri C.B. Verma.

ORDER (Dictated in Open Court)

By Hon'ble Sri Justice Alok Kumar Singh, Member (J)

Heard learned counsel for applicant Sri K.P.Srivastava and learned counsel for respondents Sri C.B. Verma and perused the material on record.

2. M.P. No. 2343/2010:- Two preliminary objections have been raised on behalf of respondents. First preliminary objection is that by means of present O.A., following multiple reliefs have been sought:-

- i) to issue order or direction to the opposite parties to rectify the pay of the applicant w.e.f. 30.11.85 in the skilled category treating the applicant as temporary status as per decision of the Tribunal and the respondents may further be directed to give the consequential benefits i.e. in pension and gratuity etc.
- ii) to issue order or direction to the opposite parties to treat the period from 5.8.86 to 25.7.90 as leave without pay for the purpose of qualifying service;

AS

- iii) to issue order or direction to the opposite parties to assign correct seniority to the applicant after fixation of pay in the skilled category;
- iv) to issue any other order or direction as this Hon'ble Central Administrative Tribunal deems fit and proper in the interest of justice to the applicant;
- v) to award the cost of the application in favour of the applicant and against the opposite parties.

3. The learned counsel for the respondents therefore, submits that in view of the provisions contained in Rule 10 of Central Administrative Tribunal (Procedure)Rules, 1987, this O.A. is not maintainable. The provisions of the aforesaid rule is as under:-

"10. Plural remedies- An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another."

4. Learned counsel for the applicant on the other hand submits that all reliefs are consequential to each other and therefore, these reliefs cannot be construed as plural reliefs. But we do not find any substance in this arguments because the first relief pertains to refixation of pay of the applicant w.e.f. 30.11.85 and that too in particular category i.e. skilled category. If we look to the judgment of this Tribunal, the only direction was to take the applicant back on duty. There was no direction in respect of skilled category. It was further provided that if the respondents wants to proceed against him under Railway Servants (Disciplinary and Appeal) Rules, 1968, they can proceed accordingly. Simultaneously, it was also observed that the applicant will not be entitled for back wages. Annexure -5, which has been relied upon by none then the applicant himself shows that in compliance of the aforesaid judgment of the Tribunal dated 19.4.90, the applicant was taken

18

back on duty as Casual S.S. Wiremen in the pay of Rs. 210/- per month in R.S. as the applicant had been working on the relevant date i.e. on 4.8.1986. Therefore, the relief No.8(i) for seeking re-fixation of pay is in fact misconceived and also not in accordance with the judgment of this Tribunal.

5. Besides, under relief No. 8(ii), the applicant has sought a direction to treat the period from 5.8.86 to 25.7.90 as leave without pay for the purpose of qualifying service. As mentioned herein above, there is also no such direction in the aforesaid judgment of this Tribunal in this regard. On the contrary, the Tribunal had observed that the respondents may take appropriate action for his long absence in accordance with Railway Servants (D&A) Rules, 1968. Further, this relief cannot be said to be a consequential relief and is beyond the ambit of the aforesaid judgment of this Tribunal.

6. Thirdly, the relief under 8(iii) has been sought directing the opposite party to assign correct seniority to the applicant after fixation of pay in the skilled category. This relief again is misconceived as discussed above and it is beyond the scope of the aforesaid judgment. This relief also has no connectivity with the previous reliefs, therefore, cannot be construed to be a consequential relief. It is worthwhile to mention that in the aforesaid judgment of the Tribunal also, no consequential relief has been given.

7. Learned counsel for the applicant has placed reliance on the following case law:-

M.R. Gupta Vs. Union of India and others reported in 1995 Supreme Court Cases (L&S) 1273.

The facts of the case of M.R. Gupta (supra) are different from the present case. In the case of M.R. Gupta (supra), the question was only in respect of fixation of pay wherein Rule 2018 (old) and also fundamental Rule 21 and 21 C were involved. These Rules pertain to fixation of pay

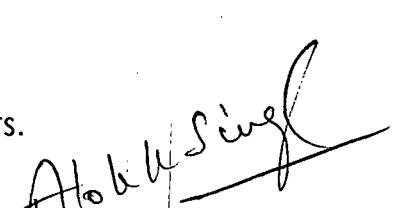
on promotion. But in the present case, no such question is involved. Therefore, the applicant cannot get any benefit of this cose law. Finally, therefore, in view of Rule 10 of CAT (Procedure)Rule, 1987, this O.A. is not maintainable.

8. Another objection which has been raised by the respondents pertains to limitation under Section 21 of the AT, Act. At the out set , it is worthwhile to mention that that the applicant was token back in service in July, 1999. On 18.8.90, he made a representation (Annexure A-3) . Then on 27.8.2002, he mode second representation which was received in the office of respondent No. 2 on 29.8.2002 (Annexure 4). But this O.A. was filed on 5.9.2005. The prescribed period of limitation is one year and when where any representation has been given, it may extend to six months more. But the present O.A. has been filed after an inordinate delay of about 3 years, which cannot be condoned and there is also no application for condoning the delay. Finally, therefore, this O.A. is barred by limitation.

9. In view of the above, O.A. is dismissed . No costs.


(S.P.Singh)
Member (A)

HLS/-


(Justice Alok Kumar Singh)
Member (J)