

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 315/2009

This, the 8th day of September, 2011

HON'BLE JUSTICE ALOK KUMAR SINGH, MEMBER (J)
HON'BLE SHRI S.P. SINGH, MEMBER (A)

Shri Narain son of late Sri Balloo, aged about 69 years resident of village Rahimabad, Post Office Bijnore, Tehsil and District Lucknow last employed as Driver Goods under Diesel Lobby Incharge Gorakhpur, under the control of Divisional Railway Manager, North Eastern Railway, lucknow.

Applicant.

By Advocate: Sri K.P. Srivastava

Versus

1. Union of India, through the General Manager, North Eastern Railway, Gorakhpur
2. The Additional Divisional Railway Manager, North Eastern Railway, Hazratganj, Lucknow

Respondents.

By Advocate: Sri Amar Nath Singh Baghel for Sri M.K.Singh

ORDER (Dictated in Open Court)

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

M.P. No. 2400/2009: This is an application for amendment .

2. Heard and perused the material on record.
3. This O.A. has been filed for the following reliefs:-
 - i) To issue order or direction, direction the respondents to treat the intervening period from the date of removal to the date of reinstatement and its arrears is to be paid with pensionary benefit.
 - ii) To issue order or direction, directing the respondents to fix the pay of the applicant at par with his junior Sri A.K.Siddiqui as per established law.
 - iii) To issue order or direction, directing the respondents to fix the pay of the applicant as passenger driver at par with the juniors and the consequential benefits including arrears and fixation of pension etc. may be given

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iv) To issue order or direction to the respondents as the Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicant

v) To award cost of the application to the applicant and against the respondents.

4. By means of the amendment application, certain paragraphs have been sought to be added in respect of lack of evidence in the enquiry. Some case laws have also been mentioned in para 3 and 6 of the amendment application which are sought to be incorporated. In para 8, the relief have been sought to be added for quashing the order of the appellate authority imposing penalty of WIT (withholding increment temporarily) for one year and treating the intervening period from the date of removal to the date of reinstatement as LAP/LHP as Extra Ordinary Leave (EOL), which is vehemently opposed mainly on the ground that if the amendment is allowed, the nature of the O.A. would be completely changed.

5. From perusal of O.A., it transpires that in the O.A., no relief whatsoever was originally sought in respect of the orders passed by the Enquiry Officer/ Disciplinary Authority or Appellate Authority. Naturally, therefore, if the amendment is allowed, it would change the nature of the O.A. It is also worthwhile to mention that the case laws are not required to be mentioned in the pleadings. Therefore, amendment sought in this respect is also irrelevant.

6. The background facts in short are that the applicant was Goods Train Driver. An accident was allegedly committed by him in the year 1995. The charges were partially found to be proved by the enquiry officer but the disciplinary authority enhanced the punishment by passing an order of removal. The Appellate authority, however, reduced it by passing orders for reinstatement. He remained out of job for about 5 years. It is said that last

appellate order was passed on 28.4.2009, by means of which, his representations moved in furtherance of orders passed by the CAT in O.A. No. 333/2006 has been disposed of and in respect of the aforesaid period, it has been observed that LAP/LHAP/ Extra Ordinary Leave (EOL) whatsoever is due, the intervening period would be regularized, accordingly. He would also be entitled for pensionary benefits from 30.11.2001.

7. This is fourth round of litigation and we have no hesitation in observing that pleadings of this O.A. are not only ambiguous, hazy but also incomplete and inconsistent. At the same time, multiple reliefs have been sought in the O.A. on account of which this O.A. deserves dismissal in view of provisions of Rule 10 of CAT (Procedure) Rules, 1987. Though, according to the applicant, the other reliefs are consequential but it is not so. Suffice is to mention that in relief 3(ii) a direction has been sought for fixing the pay of the applicant at par with his juniors in accordance with law. Similarly, in relief 3(iii), a direction has been further sought for fixing pay of the applicant as Passenger Driver at par with his juniors. These reliefs cannot be said to be consequential reliefs of 3(i) which itself is ambiguous, as is apparent from its reading. Therefore, this O.A. is liable to be dismissed for seeking multiple reliefs in view of the aforesaid Rule 10 of CAT (Procedure) Rules, 1987 and also for the reason its pleadings being ambiguous, hazy and inconsistent.

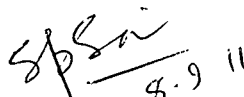
8. Coming back to the amendment application, in continuation of our observation already made in para 5, it is further observed that besides proposed addition of new relief, pertaining to punishment / appellate order, the entire application as it has been drafted appears to be inconsistent and ambiguous. Moreover as said before some irrelevant pleadings have been sought to be added by means of this amendment application. Not only that, in

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proposed amended para 8(i) (a), penalty of WIT (Withholding of increment temporarily for one year) has been mentioned but the learned counsel for the applicant could not show that such a direction was contained in the order which has been finally passed by the Appellate Authority. Even the date of order of appellate order which is sought to be added by means of amendment in the relief clause, has not been mentioned.

9. Similarly, in the aforesaid last order passed by the appellate authority in furtherance of order passed by CAT in O.A. No.333/2006, it is mentioned that the intervening period would be dealt with keeping in view LAP/LHP and Extra Ordinarily Leave. Then, what is the necessity of seeking this relief by way of amendment. This part of amendment has been sought against the record.

10. In view of the above, the amendment application is rejected. Simultaneously, the O.A. is also dismissed for the reasons mentioned hereinabove. No order as to costs.


(S.P. Singh)
Member (A)


(Justice Alok Kumar Singh) 8.9.11
Member (J)

HLS/-