

Reserved

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 422/2009

This, the 12th day of April, 2013

Hon'ble Mr. Navneet Kumar, Member (J)

Ganga Prasad Singh, aged about adult, son of Late Shri Baijnath Singh, resident of Village Sahodarpur Poorvi, Post-Makandaruganj, District-Pratapgarh.

Applicant

By Advocate: Sri Praveen Kumar.

1. Union of India through, the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. The Senior Section Engineer, Loco, Northern Railway, Pratapgarh.

Versus

Respondents

By Advocate Sri Amarnath Singh Baghel for Sri M. K. Singh.

**(Reserved On 2.4.13)
Order**

By Hon'ble Mr. Navneet Kumar, Member (J)

The present O.A. has been preferred by the applicant under Section 19 of the Central Administrative Tribunal Act, 1985 with the following reliefs:

- (i) To release the arrears of salary after adding the aforesaid increments earned during the period 1990-1994.
- (ii) To recalculate the pensionary benefits of the applicant and issue revised pension order revising the pension etc. on the basis of fixation conveyed by means of order dated 22.11.2008.
- (iv) To release arrears of pension etc. along with interest @ 18% per annum with effect from 1994 till actual date of payment.
- (v) Any other relief, which this Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.

2. The brief facts of the case are that the applicant was working on the post of Driver (Goods) was posted on the post of Foreman(Running) in the pay scale of Rs. 1600-2660 and in pursuance of this, the applicant joined the said post. The 

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applicant after serving a quite long time was reverted to his substantive post and while he was reverted on his substantive post i.e. Driver (Goods) in the pay scale of Rs. 1350-2200, he was not paid increment for the post of Driver (Goods). The applicant made a representation. The applicant failed to received any communication from the respondents and subsequently, the applicant retired from service in the year 1994 and the respondents released the pensionary benefits to the applicant without taking into account of the increment earned on the post of Driver (Goods) since year 1990. The learned counsel for the applicant has categorically pointed out that he is entitled to get the increment for the period 1991-1992, 1993-1994 while he was working on the post of Driver (Goods), but the respondents utterly fail to consider the same. The applicant made several representations to that effect and finally preferred an O.A. 41/2008 which was disposed of by the Tribunal vide order dated 25.1.2008 and directed the respondents to consider the representation of the applicant and finally the respondents passed an order on 27.3.2008. The applicant feeling aggrieved by the said decision of the respondents has preferred present O.A and submitted that the punishment of WIT for the period of one year was awarded in the year 1991 and the said period was over in 1992 whereas, the issue involved in the case is of 1993-1994. As such, the rejection of the representation of the applicant is bad in the eyes of law and is liable to be quashed.

3. Learned counsel appearing on behalf of the respondents filed preliminary objection as well as the counter reply and through counter reply, the learned counsel for the respondents categorically pointed out that the applicant was awarded punishment withholding of increment for a period of one year in the year 1991, therefore, the increment for the period of 1990-1991 was not granted in compliance of the said punishment order dated 14.6.1991. The learned counsel for the respondents

also pointed out that the applicant was temporarily posted as Foreman on adhoc basis in the grade of Rs. 1600-2660 by downgrading the post in grade of Rs. 2000-3200 to Rs. 1600-2660. It is also pointed out that the applicant was reverted from the post of Foreman to the post of Driver (Goods) vide order dated 26.11.1993.

4. The learned counsel appearing on behalf of the applicant filed rejoinder and through rejoinder, the applicant reiterated the above averments made in the O.A. and once again pointed out that since the punishment which was awarded to the applicant was for the year 1991 therefore, any action taken after that period is bad in the eyes of law and as such the O.A. is liable to be allowed.

5. Heard the learned counsel for the parties and perused the record.

6. The brief facts of the case are that the applicant who joined the services of the applicant superannuated in the year 1994. The applicant was posted on the post of Foreman(Running) in the year 1992 and he joined the said post in the year 1992 itself. Since the senior candidate was available, therefore, the applicant was reverted in the grade of Rs. 1350-2200. The applicant has also pointed out that though he was reverted after one year of posting on the post of Foreman(Running), but was not paid the increment for the said post. It is also to be pointed out that the applicant while working on the post of Foreman(Running) was in the grade of Rs. 1600-2660 and the pay of the applicant was 2080/- per month and the applicant worked on this post till 30.11.1993. It is once again to be pointed out that the punishment which was awarded to the applicant was of the year 1991 for a period of one year as such the revised pay of Rs. 1600 w.e.f. 1.6.1993 and 1660 w.e.f. 1.6.1994 as mentioned in the impugned order appears to be unjustified.

7. Considering the averments made by the applicant , the respondents failed to consider the factual aspect of the matter and passed order on 27.3.2008, therefore, the order dated 27.3.2008 contained in Annexure A-1A is liable to be quashed.

8. Accordingly, the O.A. is allowed. The impugned order dated 27.3.2008 stands quashed. Since the applicant already superannuated as such, the respondents are directed to reconsider and pass a final order in respect of the applicant for his pensionary benefits within a period of three months and decision so taken be communicated to the applicant.. No order as to costs.

Mr. Agrawal
(Navneet Kumar)
Member (J)

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