Central Administrative Tribunal, Lucknow Bench, Lucknow

M.P.No. 1793/2007 in O.A. NO. 20/2002

This the 24th day of November , 2008

Hon'ble Sri M. Kanthaiah, Member (J)

S.P.Mishra aged about 69 years son of late Sri R.D. Mishra, r/o A-102, Rajajipuram, Lucknow 226017, last employed as Mail Train Driver under DRM, NE Railway, Lucknow representing also applicant No.2 and 3 , applicant No.4 and applicant No. 5 in the OA. No. 20 of 2002 , S.P.Mishra and others Vs. UOI and another

Applicants.

By Advocate: Sri Chandra Shekha

Versus

1. Union of India through the DRM, North Eastern Railway, Ashok Marg, Lucnow.
2. Assistant Divisional Accounts Officer, N.E. Railway, Ashok Marg, Lucknow.

By Advocate Sri Arvind Kumar.

Respondents.

Order

By Hon'ble Mr. M. Kanthaiah, Member (J):

The applicants have filed M.P. No1793/2007 under Rule 24 of the CAT (Procedure) Rules, 1987 to issue direction to the respondents for implementation of the order dated 3.3.2006 read with order dated 9.6.2006 passed by this Tribunal.

2. The respondents have filed the compliance report stating that the authorities have complied with the directions of the Tribunal and as such this petition has become infructuous and thus sought for dismissal.

3. The applicants have filed objection for the compliance report stating that the respondent authorities have partly complied with the orders of the Tribunal but not in toto and thus raised objections.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case is that the applicants have filed O.A. with a prayer to direct the respondents to fix his pension considering the actual D.A. and I.R. drawn by them in the pre-revised scale of pay upto 31.12.95 and other reliefs. But after due context , the said O.A. was disposed of on 3rd March, 2006 with the following observations:-

> "Keeping in view the peculiar facts and grounds involved in the instant case, it is considered expedient that the arrangement be made where the expert member is associated with pay fixation and the applicants are also given chances to put forward their pleas either in person or through their proxy. In this view of the matter, it is directed that the Divisional Railway Manager, N.E. Railway,Ashok Marg, Lucknow shall depute senior Divisional Accounts Officer , N.E. Railway to carry out a close analysis in the matter and examine the claim of the applicants strictly in accordance with the aforesaid circular of the Railway Board. He would give adequate opportunity/ hearing to the applicants before deciding the matter. In case any amount of arrear is due to the applicants, the amount due would be paid along with interest @ 8% from the date of filing of this O.A. i.e. 31.10.2001 till the actual payment. This exercise shall be done and completed as early as possible and in any case not later than within 3 months from today. There shall be no order as to costs."

7. Subsequently, the respondents have field M.P.No. 1367/2006 in O.A. No. 20/2002 for extension of time and the same was allowed by granting further period of two months for compliance of the order of the Tribunal. Thereafter, the applicants have filed this petition stating that the respondents have not complied with the orders of the Tribunal

and as such sought for execution of the same. The respondents have filed compliance report stating that in pursuance of the directions of the Tribunal, the applicants were given opportunity before taking any decision in respect of their claims of arrears in accordance with the Railway Board's circular and thereafter, the authorities have passed orders by revising the PPO in view of Railway Board's letter dated 26.2.2004 and issued them to the concerned bank for payment of their pension. Similarly, in respect of interest also, they have taken decision and issued orders for payment of interest to the applicants covered under Annexure A-1.Thus stated that they have complied with the orders of the Tribunal.

8. On perusal of the directions of the Tribunal in main O.A. dated 20/2002, it is clear that the Divisional Railway Manager, NE, Railways Lucknow directed to depute Sr. Divisional Accounts Officer, NE Railway, Lucknow to carry out a close analysis in the matter and examine the claim of the applicants strictly in accordance with the aforesaid circular of the Railway Board and he would give adequate opportunity / hearing to the applicants before deciding the matter. In case any amount of arrear is due to the applicants, the amount due would be paid along with interest @ 8% from the date of filing of this O.A. i.e. 31.10.2001 till the actual payment and this exercise shall be done and completed as early as possible and in any case not later than within 3 months from today.

9. From this order, it is clear that the Tribunal has not given any finding in respect of the actual amounts in respect of fixation of pensionary benefits of the applicants but directed to carry out such analysis in accordance with Railway Board's circular and also provided opportunity of hearing to the applicants before taking any decision and in case any amount of arrears is due to the applicants, the amount due would be paid along with interest @ 8% from the date of filing of this O.A. In pursuance of the directions of the

Tribunal, the respondents authorities have examined the claims of the applicants and also provided opportunity to them before passing orders. In such circumstances, it is not open to the applicants to say that the respondents have not complied with the directions of the Tribunal and any thing is left over for execution. If the applicants are aggrieved with the findings of the respondents, they are at liberty to file a fresh O.A but without ascertaining any amount and findings, on such amount in O.A. ,it is not open to the applicants to agitate for the amounts as per their calculations under the guise of the orders of the Tribunal. Thus, there is no merit in the claim of the applicants and as such the application for execution is liable for dismissal.

10. In the result, Execution Application No. 1793/2007 is dismissed.

(M. Kanthaiah)

Member (J)

24.11.08

HLS/-