

Central Administrative Tribunal, Lucknow Bench, Lucknow
 Original Application No. 183/2009

This the 10th day of December, 2013

Hon'ble Sri Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Umesh Chandra Sharma aged about 63 years son of late Sri Ram Avtar Sharma resident of D-107, Rajajipuram, Lucknow.

By Advocate: Sri Raj Singh Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.
3. The Divisional Personnel Officer, Northern Railway, Moradabad Division, Moradabad.

By Advocate: Sri Ashish Mishra for Sri M.K.Singh Respondents

(Reserved on 28.11.2013)

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application is preferred by the applicant u/s 19 of the AT Act, with the following reliefs:-

- i) This Hon'ble Tribunal may kindly be please to direct the respondent No. 3 to rectify the anomaly in respect of fixation of pay of the applicant at par with his juniors Sri Mukhtiar Ahmad and Sri A.K. Chatterjee after verifying the records of the applicant as well as his juniors said above.
- ii) To direct the respondents to pay the arrears of difference of salary after refixation of pay of the applicant.
- iii) To direct the respondents to revise retiral dues of the applicant including pension after fixation of pay at par with his juniors namely Sri Mukhtriar Ahmad and Sri A.K. Chatterjee.
- iv) To pass such other orders which are found just fit and proper under the circumstances of the case.
- v) To allow the original application with cost.

2. The brief facts of the case are that the applicant was initially appointed in the respondents organization on the post of Material Checking Clerk (in short MCC) on 15.7.1963 and one Sri Mukhtiar Ahmad was appointed on 15.8.1963 and another person namely Sri A.K.Chatterjee was appointed as MCC on 19.9.1963. Subsequently, the applicant superannuated on 30th June, 2005 . In 2005, the applicant submitted a representation to the authorities indicating therein that Sri A.K. Chatterji and Sri Mukhtiar Ahmad were appointed subsequent to him and were promoted as Mail Guard and were always remained junior to him. The learned counsel for the applicant has also indicated that the applicant through his representation has pointed out that Sri Mukhtiar Ahmad and Sri A.K.Chatterji, retired from service with a pay of Rs. 9000/- whereas the applicant was drawing Rs. 8650/- per month at the time of his retirement. The applicant has also submitted reminder on 13.10.2005 and thereafter submitted another representation on 12.1.2006 and submitted again a representation on 28.5.2008. Upon query by the Tribunal, the learned counsel for the applicant failed to indicate any seniority list whatsoever which may indicate that the applicant was senior to the two persons namely Mukhtiar Ahmad and Sri A.K. Chatterjee, even the learned counsel for the applicant failed to file any letter of appointment of the applicant as well as any seniority list.

3. The respondents counsel filed preliminary objection of delay as well as filed their detailed counter reply indicting therein that no such records are available with him which may indicate that Sri Mukhtiar Ahmad and Sri A.K.chatterjee were junior to the applicant. Only this much was pointed out by the respondents that one Sri A.K. Chatterjee was sanctioned one special increment on 1.6.1974 for his loyal service during Railway strike while the applicant did not perform his duties during the said strike. Apart from this, it is also pointed out by the respondents that Sri A.K.Chatterjee was appointed as MCC on

19.9.1963 but no records pertaining to the applicant or to Mukhtiar Ahmad is available. As indicated above by the respondents that Sri A.K.Chatterjee was sanctioned one special increment on 1.6.1974 for his loyal service during Railway strike, as such, it cannot be said that the applicant was senior to other two persons named above.

4. Learned counsel appearing on behalf of the applicant has also filed their Rejoinder Reply and through Rejoinder Reply, mostly the averments made in the O.A. are reiterated. However, it is once again pointed out by the learned counsel for the applicant that not getting the records of the employee junior to the applicant is the sole responsibility of the respondents and even the respondents have not taken due care of the representation submitted by the applicant.

5. Learned counsel for the respondents filed their Supple. Affidavit and through Supple. Affidavit, once again, the averments made in the counter reply are reiterated.

6. Heard the learned counsel for the parties and perused the records.

7. Admittedly, the applicant was working with the respondents organization, was appointed as Material Checking Clerk in 1963 and superannuated from the post of Guard Mail on 30th June, 2005. Prior to his retirement, the applicant has submitted representation on 28.6.2005, indicting therein that two persons namely Mukhtiar Ahmad and A.K.Chatterjee were appointed as MCC and were subsequently promoted as Mail Guard but their dates of engagement as MCC are after the date of engagement of the applicant as such they are junior to the applicant. The applicant through the representation has also indicated that the service condition of both the persons is identical. At the time of retirement from service, the pay of other two persons were higher than the pay of the applicant. The applicant has also pointed out in his representation that there is no rule which may provide junior to get higher pay than the senior. The said representation was again

reiterated by the applicant through his reminder dated 12.1.2006 and subsequently on 28.5.2008.

8. Upon query by the Tribunal from the learned counsel appearing on behalf of the parties to show the seniority position of applicant as well as Sri A.K.Chatterjee and Sri Mukhtiar Ahmad but both the learned counsel for parties failed to indicate any such seniority list which may indicate that the applicant was senior to the above named two persons.

9. Not only this, the learned counsel for the applicant also failed to file any order of appointment of the applicant or the appointment order of other two persons. If the contention of the applicant is taken to be correct, the order pertains to the year 2005 and the special increment was granted to Sri A.K. Chatterjee for his loyal service during Railway strike while the applicant did not perform duty, as such, he was not entitled to receive benefit. It is also to be pointed out that this benefit was given only to the persons who has served during the Railway strike as per the policy decision of the Railway Board.

10. The applicant failed to place his case and also failed to indicate any seniority list which may indicate that the applicant was senior and is drawing lesser pay than the juniors.

11. Considering the submissions made by the learned counsel for the parties and in the absence of any available records, we are unable to interfere in the present O.A.

12. Accordingly, O.A. is dismissed . No order as to costs.

J.Chandra
(JAYATI CHANDRA)
MEMBER (A)

HLS/-

Navneet Kumar
(NAVNEET KUMAR)
MEMBER (J)