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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 364 of 1992 (L)

V.N. Pandey Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. S.N. Prasad, Member (Judicial)

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for directing the respondents to fix the pay of the applicants as per Annexure A-1 and A-3 to the application w.e.f. 1.1.1985, the date of next increment in lower post from C.G.I to C.G.I(S.G.) after counting the special pay of Rs. 35/- per month granted to C.G.Is(Rs. 330-560) for fixing of pay on promotion(Rs. 425-700) and re-fixation of pay again in Grade Rs. 1400-2300 w.e.f. 1.1.1986 as a result of recommendation of the Fourth Pay Commission and for further directing the respondents to grant consequential ~~retiral~~ benefits and also alongwith the interest @ 18% per annum.

2. Briefly, stated the facts of this case , interalia, are that the applicant retired as a Assistant Accountant(Sub-head) from the office of Senior Divisional Accounts Officer, Northern Railway, Hazratganj, Lucknow w.e.f. 31.10.1990(Vide Annexure A-1) to the application); ^{which as per Rly. Board} The special pay of Rs. 35/- per month ^{is granted to} letter dt.29.6.90 to ~~the~~ Clerk Grade-I in scale of Rs. 330-560/-(R.S.) is to be counted for fixation of pay on promotion as Sub Head (Gr. 425-700) in the Accounts Department from the date of next increment in lower post from C.G.I. to C.G.I. (S.G.) Sub-Head ; and as per paragraph 4 of the aforesaid letter, ~~the~~ applicant opted his promotion as Sub Head from the date of his subsequent increment in clerical Grade w.e.f. 1.1.1985(Vide Annexure A-2 to the applicatio

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The applicant was promoted to officiate as Sub-Head in gr. Rs. 425-700 w.e.f. 1.1.84 and his pay was fixed at Rs. 515/-P.M. w.e.f. 1.1.84 as a result of restructuring. The applicant represented his case to the S.D.A.O.N.Rly. Lucknow on 3.12.90 (Annexure A-4) followed by subsequent reminders dated 1.2.1991 and 12.7.1991 (Annexure A-5 and A-6 respectively), but of no avail, hence, the applicant have approached this tribunal for the relief as indicated above.

3. The respondents have assailed the claim of the applicant with the contentions, inter-alia, that applicant's increment falls on 1.5.1985 instead of 1.1.1985. It has further been stated that the applicant was granted personal pay of Rs. 35/- w.e.f. 29.3.1984 and his pay was fixed of Rs. 530 + 20 as personal pay w.e.f. 1.1.1985. It has further been contended that the pay of the applicant can not be fixed according to printed serial No. 9832 because the applicant opted for his fixation w.e.f. 1.1.1985 but his increment in lower grade fell due on 1.5.1985, hence option became invalid. It has further been contended that the grounds taken by the applicant are false and frivolous and are not sustainable in the eye of law. The representation of the applicant and the reminders have already been decided by the Financial Advisor and Chief Account Officer vide order dated 28.1.1991 and 29.7.1991 (vide Annexure R-1 and R-2 to the counter reply) and as such the application of the applicant is liable to be dismissed with cost.

I have heard the learned counsel for the parties.

4. This is noteworthy that para 4 of the Railway Boards letter No. P.C. III/89, F E-1/5 dated 29.6.1990 (vide Annexure A-1 to the application) reads as follows

"While implementing the Board's revised order quoted above, the staff may be allowed to opt for the benefit of fixation of pay from the date of next increment in the lower post (PS 7937) from C.G.I. to C.G.I(S.G.)/Sub-Head within one month from the date of issue of this letter."

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5. It is also noteworthy that Annexure A-2 to the application shows that the applicant opted for re-fixation of his pay amounting to Rs. 35/- as special pay on promotion as Sub Head from 1.1.1985 through his option letter dated 23.8.1990 which is within one month from the date of the communication of the above letter of the Railway Board, a copy of which was circulated under the letter of the F.A. and C.O. Northern Railway New Delhi under his letter dated 27.7.1990 (Vide Annexure A-1).

6. This fact should also not be lost sight of that the above option form Annexure A-2 was submitted by the applicant as per option-form as specified in Annexure A-3 to the application. It is also worth while reproducing the letter of F.A. and C.O. Administration N. Railway New Delhi letter of January, 1991 whereby the representation of the applicant dated 3.12.1990 (which is Annexure A-4 to the application) has been decided :-

"The benefit of special pay of Rs. 35/- for the purpose of fixation of pay was granted to only those persons who were actually drawing it. In the above case question of counting of special pay of Rs. 35/- for the purpose of fixation of pay does not arise."

7. This is important to point out that in para 4.4 of the application, it has been clearly mentioned that the applicant was promoted to officiate as Sub Head in grade Rs. 425-700 w.e.f. 1.1.1984 and his pay was fixed at Rs. 515 per month w.e.f. 1.1.1984 as a result of restructuring. In this connection, it is noteworthy that in para 4.4 of the counter-reply, it has been stated by the respondents as follows :- "That the contents of para 4.4 of the application need no comments."

8. Thus, from the fore-going discussions and after considering entire material on records and keeping in vic-

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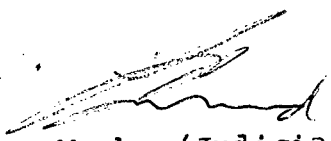
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the directions contained in the above letter of the Railway Board dated 29.6.1990, as referred to above, and keeping in view the provisions contained under ^{Ply} Rule 2018-B (Fundamental Rule 22-C), I find that the application of the applicant is not without force, rather it has force and merit.

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9. Consequently, the application of the applicant is allowed and the respondents are directed to fix the pay of the applicant as per Annexure A-1 and A-3 ^{to the application} and in accordance with option given by the applicant (Annexure A-2 to the application) w.e.f. 1.1.1985, the date of next increment in lower post from ~~C.G.I~~ to C.G.I (SG) after counting the special pay of Rs. 35/- per month granted to C.G.Is. (Rs. 330-560) for fixing of pay on promotion (Rs. 425-700 and re-fixation of pay again in grade Rs. 1400-2300 w.e.f. 1.1.1986 as a result of recommendations of the Fourth Pay Commission and to give all the consequential benefits arising there-from including the retiral benefits to the applicant, within a period of 3 months from the date of receipt of the copy of this judgement.

10. The application of the applicant is disposed of as above. No order as to costs.


Member (Judicial)

Dated: 12.1.1993

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