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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No 665/87

~~T.A. No.~~

198

DATE OF DECISION 3-4-1991

Mr. Jaikumar Barku Makhe Petitioner

Mr. D.V. Gangal Advocate for the Petitioner(s)

Versus

Union of India, and others Respondent

Mr. P.R. Pail Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. U.C. Srivastava, Vice Chairman,

The Hon'ble Mr. M.Y. Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

Y. H.

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
NEW BOMBAY

Original application No. 665/87

Shri Jaikumar Barku Makhe
C/o Gupta's Old Ginning Factory,
New Satara, Bhusawal-425201.

.... Applicant

VS.

UNION OF INDIA
and others

Respondents.

CORAM : Hon'ble Shri U.C.Srivastava, Vice Chairman.
Hon'ble Member Shri M.Y.Priolkar, Member(A)

Appearance:

1. Mr. D.V. Gangal,
Advocate for the applicant
2. Mr. P.R. Pai, Advocate,
for the Respondents.

ORAL JUDGEMENT

DATED: 3-4-1991.

(PER: M.Y. PRIOLKAR, M(A))

The applicant in this case is a retired Railway employee belonging to Bhusawal division. He was transferred from Bhusawal to Bombay in 1946. He was promoted on 8.12.1978 from the grade of Rs.425-700 to that of Rs.550-750 and posted at Bhusawal but he was not released by the Bombay Office. The grievance of the applicant is that he had thus to retire on superannuation on 31.1.1980 in the lower grade of Rs.425-700 and thus suffered monetary loss for no fault of his.

2. The respondents in their written reply have stated that the applicant himself did not carryout the transfer on promotion to the grade of Rs.550-750 till the date of his retirement, as he preferred to work in his existing post at Bombay. But the respondents have not produced any letter on

or representation from the applicant regarding his refusal of promotion or ^{for} retention at Bombay. The applicant, on the other hand, has produced a letter dated 25.1.1982 (Annexure A) from the Senior Commercial Officer, Bombay to A.P.O.(T.C.) stating that the applicant was not relieved as per order of the Deputy Chief Claims Officer since no relief was provided against him. The respondents contend that this letter dated 25.1.1982 is erroneous and does not represent the true position prevailing in 1978/79. But the respondents are not able to show any documentary evidence to prove that the true position was otherwise. The learned counsel for the respondents conceded during the hearing that the applicant's refusal to move on promotion to Bhusawal was oral and there is no record to substantiate it.

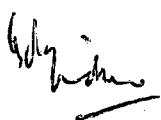
3. Since the applicant states that he had not given any refusal for promotion and transfer to Bhusawal and the letter dated 25.1.1982 of the Senior Commercial Officer also states clearly that the applicant could not be relieved because no relief was provided against him, it must be held that the applicant was not relieved to join his promotion post at Bhusawal only in the interest of administration due to the failure on the part of Railway administration to provide relief against him, as asserted by the Senior Commercial Officer. He should be entitled to be given a notional promotion to the scale of Rs.550-750 from the date of his immediate junior was promoted to that grade in Bhusawal Division after 8-12-1978 and the pay refixed from that date till retirement and the pension entitlement also calculated on that basis. However, since the applicant has approached the Tribunal only on 13.10.1987 although he had retired on 31.1.1980,


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the actual arrears of pension and the revised pension will be payable only with effect from one year prior to the date of filing the application, that is, the arrears will be paid from 1.10.1986. His prayer for the higher grade of Rs.700-900 is rejected, as he was not selected for that grade.

4. With the above direction, which should be implemented as far as possible, within 3 months from the date of receipt of this order, this application is disposed of, with no order as to costs.


(M.Y. Priolkar)
M(A)


(U.C. Srivastava)
V C