

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(05)

O.A. NO: 543/91

199

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DATE OF DECISION 10.3.1992.

G. Radhakrishna

Petitioner

Applicant in person.

Advocate for the Petitioners

Versus

Union of India & Another.

Respondent

Mrs. Indira Bodade

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice 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 ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

mbm*

(U.C. SRIVASTAVA)
VICE CHAIRMAN.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, CAMP AT NAGPUR.

O.A.543/91.

G. Radhakrishna,
R/o. C-2, Railway Bungalow,
Ajni, Nagpur.

.. Applicant.

Vs.

1. Union of India, through
The General Manager,
Central Railway,
Headquarters Office,
Personnel Branch,
BOMBAY V.T.
2. Divisional Railway Manager,
Personnel Branch,
Central Railway,
NAGPUR. .. Respondents.

Coram : Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman.
Hon'ble Mr. M.Y. Priolkar, Member (A).

Appearances:

Applicant in person.

Mrs. Indira Bodade, Adv.
for the Respondents.

ORAL JUDGMENT:

Date : 10.3.1992.

(Hon'ble Shri U.C. Srivastava, Vice Chairman)

In this application as only a short question is involved and the written statement and rejoinder too has been filed by the applicant who appears in person, this case is being disposed of finally after hearing the parties. Admit. The question in this case is as to whether the applicant who admittedly though was substantively a Group B employee for which 'Group' certain incentive scheme were enforced and is at present working in the higher scale which is also the scale of Group 'A' is entitled to benefit of the incentive scheme or not.

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2. The applicant joined his service in the Central Railway in the year 1959 as Permanent Way Inspector. After certain intervening promotion the applicant was appointed as Executive Engineer (Relying) in Group B at the relevant point of time he was drawing a salary of Rs.3,625/- but has not been in maximum of any grade. The grade of Group B officers exist only two pay scales. The substantive scale being Rs.2000-3500 and the officiating scale is Rs.3000-4500 this officiating scale is the same as Group 'A' pay scale. The Railway Board vide its circular dtd. 4.5.1990 provided that the Group B officers of the Technical Department should be granted six advance increments on passing Part II AMIE Examination in case they got the qualification after joining the service and the said circular laid down certain more conditions.

- "a) Incentives are to be granted only once.
- b) The grant of advance increments cannot be granted to such officers who have already reached the maximum of the scale on or before the date of passing the examination and subsequently promoted to a higher grade or post.
- c) The officer concerned will draw their annual increments on due dates i.e. the date on which their normal increments would accrue but for the grant of advance increments.
- d) The benefit of incentives will be admissible from the date following the last date of the prescribed examination and not from the date of publication of results.
- e) The benefit of incentive shall also be admissible to such Gr.'B' officers who have qualified the recognised examination prior to the issue of these instructions, from the date of issue of this letter, in the time scale of pay in which they are drawing pay as on the date of this letter. If this is an officiating grade, he should

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also be granted proforma benefit of advance increments in the lower grade and in the event of reverting to that Grade, he should get his proforma pay in that Grade. If on the other hand, an officer is promoted to a higher grade after being granted advance increments in a lower grade, the pay drawn by him at the time of promotion should be taken as pay for fixation of pay under the rules."

The certain clarifications was given by the Railway Board on 12.10.1990. In view of the Railway Board's Circular the applicant who was Group 'B' employee and was working in technical side prayed that he was entitled to four increments under the said circular. After passing the above mentioned examination, the applicant was granted two advance increments in 1975 for Part II of AMIE (Civil) but no increment was granted for passing Part II of AMIE (Mechanical). The applicant who thus was granted increments earlier in 1975 prayed in all for six increments but as two increments had already been granted to him earlier when he passed Part II AMIE Examination he prayed for four increments in view of the scheme and in this behalf he addressed a letter to the Divisional Personnel Officer. The Divisional Railway Manager sought some clarification from some higher authorities and thereafter he confirmed that the applicant was eligible for four more incentive increments he having acquired higher qualification prior to 4.5.1990 in terms of subsequent clarification dtd. 12.10.1990 and as such he would be entitled to increments with effect from 4.5.1990. The Chief Personnel Officer concurred with the same and four advance increments were granted to the applicant and the pay of the applicant was fixed at Rs.4,250/- with effect from the month of March, 1991. It appears that the matter was referred to the FA & CAO and the FA & CAO expressed certain doubts in this behalf and that is why

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the matter was referred to the Railway Board and thereafter ~~any~~ order was passed not by the authority which granted the increment but by the lower authority for stopping the said increments and the recovery of the said amount which was so paid to the applicant. Feeling aggrieved against the same the applicant approached this Tribunal challenging the said order on variety of the grounds. On behalf of the Respondents it has been contended that initially the advance increments scheme was applicable only to Group 'C' employees but the Railway Board extended to the Group 'B' Officers. The applicant on the relevant ~~date~~ was already on the senior scale of Rs.3000-4500, Group 'B' to whom the scheme are extended to junior scale of Rs.2000-3500 and the case Rs.2200-4000 and above all are Group 'A' Officers as such on the relevant date the applicant was not a Group 'A' officer but was in Group 'A' scale as adhoc appointee to the said senior scale pending clearance and the approval by the UPSC/Railway Board. The FA & CAO, BBVT while considering this case expressed doubt and that is why the matter was referred and this recovery was made. So far the Group 'A' is concerned there is no denial of the fact that appointment to the same is by selection to be made by the commission and pending selection by the commission senior scale ~~he~~ can be given on officiating basis to any Group 'B' Officer. As Group 'B' employee was given only an ^{senior} officiating/scale though substantively still in 'B' Grade to which he could have been reverted as such in view of the Railway Board's Circular the applicant was for all intents and purposes was a Group 'B' employee who for the

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time being was given four advance increments under the incentive scheme but the applicant cannot get or claim double benefit. In case the total amount paid to the applicant in officiating higher scale falls short of the amount which he would have received if he would not have been given officiating scale viz. scale of 'B' Group plus four increments the applicant would be entitled to the difference ~~fall~~ either is not duly selected in 'A' Group or reverted to 'B' Group in which event he would be entitled to four increments from the date it was given to employees of 'B' group. But if the officiating scale falls short of Group 'B' scale plus four increments the applicant would be entitled to the difference plus the arrears. Accordingly it is directed that the applicant will be entitled to the benefit of the incentive increment and will be entitled to the four increments but in case the four increments falls short of the amount what applicant is getting, The applicant should not get anything but incase he would have get this grade and the present grade falls short the applicant will be entitled to the difference and the Respondents would calculate the amount which has been paid to the applicant in the past and in case extra amount has been paid only to the same may be recovered and balance he paid to applicant but in case the amount ~~recoverable~~ received by him is short of pay scale of 'B' group plus four incentive increments the applicant would be paid balance and the ~~amount~~ arrears. Let this be done within 3 months.


(M.Y. PRIOLKAR)
MEMBER (A).


(U.C. SRIVASTAVA)
VICE CHAIRMAN.