

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: CIRCUIT SITTING AT NAGPUR
351/92

Transfer Application No: _____

DATE OF DECISION 19-1-1993

Pandurang Wasudeo Moharil Petitioner

Mr.R,S.Kale

Advocate for the Petitioners

Versus

Union of India and ors.

Respondent

Mrs.Anita Shinde for Mr.S.K.Sanyal

Advocate for the Respondent(s)

CORAM:

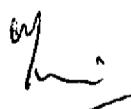
The Hon'ble Shri M.Y.Priolkar, Member(A)

The Hon'ble Shri -----

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 ?

NO

MD


(M.Y.PRIOLKAR)
Member(A)

NS/

(S)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.351/92

Pandurang Wasudeo Moharil,
R/o. Shrinivas Colony,
Ramnagar, Wardha. .. Applicant

-versus-

1. Govt. of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. General Manager,
Central Railway,
Bombay V.T.
3. Divisional Railway Manager,
Personal,
Central Railway,
Nagpur. .. Respondents

Coram: Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.R.S.Kale
Advocate for the
Applicant.
2. Mrs.Anita Shinde for
Mr.S.K.Sanyal for the
Respondents.

ORAL JUDGMENT: Date: 19-1-1993
(Per M.Y.Priolkar, Member(A))

The grievance of the applicant in this case is that his request for stepping up of his pay on par with one D.P.Agasti whom he claims to be junior to him has been rejected by the Railway administration.

2. The case of the applicant is based entirely on Railway Board's notification dt. 19-9-1986 (Annexure-10). By this notification the Railway Service (Revised Pay) Rules, 1986 were promulgated effective from 1-1-1986. Note 7 of this rules is to the effect that In cases, where a Senior Railway servant

promoted to a higher post before the 1st day of January, 1986 draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1986, the pay of the Senior Railway servant should be stepped up to an amount equal to the pay as fixed for his junior in that higher post. This is, however, subject to fulfilment of three conditions, one of the essential conditions being that the anomaly should be directly as a result of the application of the provisions of Rule 2018B (FR22C). Admittedly, the other two conditions are fulfilled in this case and those conditions are therefore not mentioned here.

3. From a comparative statement of pay drawn from time to time by the applicant (Annexure 5) and Shri D.P. Agasti, it is seen that Shri Agasti was promoted to the grade of Rs.425-700 with effect from 3.4.79 and his pay was fixed at Rs.560/- whereas the applicant came to be promoted to this grade much later than w.e.f. 1-8-79, ~~and~~ ^{also} ~~again~~ his pay was fixed at Rs.560/-. In fact the earlier promotion of Shri Agasti was in a higher scale of Rs.425-700 against the latter promotion of the applicant which was in the lower scale of Rs.425-640. Obviously Mr. Agasti would have drawn higher salary after his first increment namely from 3-4-80 itself and this higher pay as drawn by Mr. Agasti has continued throughout for the promotions with the result that on 1-1-86 the applicant was drawing Rs.725/- against Rs.750/- drawn on that date by Shri D.P. Agasti. Subsequently the applicant was promoted on 16-9-85 in the grade

of Rs.700-900 and his pay fixed at Rs.760/- whereas Shri D.P. Agasti came to be promoted in the grade of Rs.700-900 on 2-4-86 and his pay fixed at Rs.795. It is clear from ^{the above} that the drawal of higher pay by Shri Agasti was not as a direct ^{application of} FR 22C after his promotion ^{in scale} but it was the result of his earlier promotion to grade Rs.425-700 w.e.f. 3-4-79 against the applicant's promotion to grade Rs.425-640 w.e.f. 1.8.79. The applicant therefore cannot claim the benefit of notification dt. 19-9-1986 as he does not fulfil one of the essential conditions prescribed thereto for stepping up of pay namely, the anomaly of ^{drawning higher pay} junior ^{should be directly} as a result of the application of the provisions of Rule 2018B(FR22C).

4. The learned counsel for the respondents also dehied that Shri Agasti is junior to the applicant as claimed by the applicant. The respondents have annexed the copy of the seniority list circulated in 1979 where Shri Agasti is shown as senior to the applicant. Although the applicant claims that he went on representing against the seniority list and also there is some judicial decisions supporting his case although he was not a party in that decision, he never approached any competent court for the correct seniority as claimed by him, ^{by} With the result the seniority where Shri Agasti is shown as senior has become final. For both these reasons, I do not see any merit in the application that his pay should be ~~fixed~~ stepped up with that of Agasti in terms of

(B)

Railway Board's notification dt. 19-9-1986.

5. The respondents have however stated that the applicant's pay has been stepped up with reference to the pay drawn by his junior Shri D.P.Thakur and his pay was fixed at Rs.2375/- w.e.f. 31-8-87 and this has been taken into account for pensionary benefit since the applicant retired on 31-10-1987.

6. ~~Yet~~ ^{Another} another relief claimed by the applicant is that an amount of Rs.1206/- has been illegally recovered from him towards telephone call charges. This relief is not connected with stepping up of pay and multiplicity of claims not connected with each other in a single application is not permissible under our procedure. The respondents have stated that this position regarding telephone charges is ~~now~~ ^{now} being verified with the telephone authorities and the amount, if found ultimately due, ~~is~~ ^{will} be paid to the applicant.

7. In view of the above I do not find any merit in any of the contentions raised in this application. The application is accordingly dismissed ~~for~~ ^{as} devoid of any merits. There will be no order as to costs.

MD

M.Y. PRIOULKAR
(M.Y. PRIOULKAR)
Member(A)

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Review Petition No. 50/93 in
Original Application No. 351/92

Shri Pandurang Wasudeo Moharil

... Applicant

V/s.

Govt. of India,
Ministry of Railways
Rail Mantralaya
Rail Bhavan
New Delhi.

General Manager
Central Railway
Bombay VT

Divisional Railway Manager
Personal Central Railway
Nagpur.

... Respondents.

CORAM: Hon'ble Shri M.Y. Priolkar, Member (A)

Tribunal's order on Review Petition by Circulation

Dated: 15-7-1993


This review petition has been filed
by the applicant in OA 351/92 against my judgement
dated 19.1.92 by which the application was dismissed.

The review of the judgement is sought on the ground that
it is erroneous on merits and is also based on erroneous
assumptions which are apparent on the face of the
record, but nowhere in the petition the applicant has
pointed out any specific error on the face of record.

What is pointed out is that, according to the applicant,
there is incorrect interpretation of various rules
governing the pay fixation and also that certain
judicial decisions which are now quoted in the review
petition by the applicant have not been followed or
discussed in the judgement. What, in fact, the review

petitioner is asking is, therefore, the review of the
judgement on the ground that it is erroneous on merits
and needs re-consideration. In view of the various
arguments which are now elaborated in the review
petition, this will not, however, come within the scope
of a review.

(10)

:2 :



After going through the review petition I do not find any error of fact or of law which is apparent from record in the judgement nor any additional evidence which was not available at the time when the judgement was delivered. I do not, therefore, see any justification warranting a review of judgement dated 19.1.92. The review petition is therefore rejected.


(M.Y.PRIOLKAR)
MEMBER (A)

NS