

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 1257/93

Date of Decision : 10th November 2000

S.Choudhary Applicant.

Shri P.G.Zare Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents.

Shri S.C.Dhawan Advocate for the
Respondents.

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Smt. Shanta Shastry, Member (A)

- (i) To be referred to the Reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? *no*
- (iii) Library *yes*

Regd.
(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.1257/93

Dated this the 10th day of November 2000.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastry, Member (A)

Samantram Choudhary,
Chief Permanent Way Inspector,
under DRM (W), Central Railway,
Bhusawal.

... Applicant

By Advocate Shri P.G.Zare

V/S.

1. Union of India through
General Manager,
Central Railway,
Bombay V.T., Bombay.
2. Divisional Railway Manager
(Personnel), Central Railway,
Bhusawal.

... Respondents

By Advocate Shri S.C.Dhawan

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to make the payments to the applicant from November, 1989 till date 6.9.1993 in Grade Rs.2375-3500 since he continuously worked against the post.

S.C.Dhawan

..2/-

2. Relief mentioned in para 8 (ii) has become infructuous.

3. There is no dispute that the applicant was ordered to look after the work of C.P.W.I. (Stores) on officiating basis from 1.8.1984, the applicant looked after the same till 1st Nov. 1989 from time to time and has been paid in the same grade (Rs.840-1040) till 1st November, 1989.

4. The applicant claims that while he was working as P.W.I. (M.D.)/ Bhusawal Grade I, he was ordered to look after the duties of C.P.W.I.(Stores), Bhusawal on 1.7.1984 officiating in the grade of Rs.840-1040 (New scale Rs.2375-3500, he actually continued to work in the said grade even inspite of the order of reversion in November, 1989. Hence this OA.

5. The respondents have resisted the claim of the applicant and alleged that the post was restored to Deolali and Shri M.K.Gahariya was promoted as C.P.W.I. against the restored post at Deolali vide order dated 2.11.1989. Thereafter, the applicant worked as P.W.I. Grade I under Assistant Engineer (Track) Bhusawal from 2.11.1989 to 6.4.1992. On 6.4.1992, the applicant was regularly promoted as C.P.W.I. Grade Rs.2375-3500 and posted under D.R.M. (Works), Bhusawal vide order dated 6.4.1992. In view of the terms of the order, as there was vigilance case pending against the applicant, hence order of promotion could not be given effect to. On 29.5.1992, the applicant was transferred to Jabalpur from Bhusawal but the applicant did not carry out the

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transfer order. By order dated 22.2.1993, he was retained at Bhusawal for a period of six months as P.W.I. Grade I (Rs.2000-3200) under D.R.M.Bhusawal.

6. The applicant has placed reliance on an order dated 10.6.1992 issued by D.R.M's office, Bhusawal dated 10.6.1992 No.BSL/P/533/EB/PWI Grade I & II, Exh.'VII/A' which mentions as under :-

<u>Sr.No.</u>	<u>Name</u>	<u>Present</u>	<u>Proposed</u>	<u>Remark</u>
		<u>Div.& Stn.</u>	<u>Div.& Stn.</u>	
4.	Samantram Chaudhari (SC)	DRM (P) BSL (Store)	DRM JBP	vice Shri K.R.Chopra

7. According to the learned counsel for the applicant, the word DRM (P) BSL (Store) (underlined by us) specifies that at the relevant time, he was working in C.P.W.I. Grade Rs.2375-3500 otherwise, there was no necessity to mention Store. We find from the record and averment of the respondents that the applicant was retained at Bhusawal as P.W.I.(Stores), hence we are not being persuaded to agree to the contention of the learned counsel for the applicant.

8. In rejoinder, the applicant has stated in para 4 as under :-

"4. The Hon'ble CAT will call the records of the Office of CPWI (Stores) Bhusawal to find out the truth as to who had performed the duties of CPWI (Stores) Bhusawal."

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Rejoinder is a part of pleadings and not an application for summoning the records - for which the powers can be exercised under Section 22(3)(b) of the Act. Further more, the applicant did not insist before the hearing at any time when the rejoinder was filed on 23.9.1994, the case came for final hearing first on 1.5.1996 till 2.11.2000 several times (16 times) to call for the records, or even on the date of hearing before the commencement of hearing and only made submission in reply to the respondents' argument. Hence an argument during the course of hearing that such a request is made, does not entitle the applicant to any relief or does not establish the applicant's case.

9. In the result, we do not find any merit in the OA., it is liable to be dismissed and is dismissed accordingly with no order as to costs.

hanta f
(SMT.SHANTA SHASTRY)

MEMBER (A)

P.L. Jain
(S.L.JAIN)

MEMBER (J)

mrj.