

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 594 /1993

Date of Decision: 13 Nov. 96

B.T.TOLANI Petitioner/s
Smt. Sundri Parchani

Mr. C B Kale Advocate for the
Petitioner/s

V/s.

UOI & Ors. Respondent/s

Mr. Subodh Joshi Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M.R. Kolhatkar, Member (A)

Hon'ble Shri

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

M.R.Kolhatkar
MEMBER (A)

trk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, MUMBAI 400001

O.A.No.594/93

DATED: 13 - 11 - 1996

CORAM: Hon. Shri M R Kolhatkar, Member(A)

1. Bansidhar T. Tolani
(deceased and substituted by Sr.No.2)
2. Smt. Sundri Parchani,
205 Jai Manisha Society,
G.Gupte Road,
Gavdevi,
Dombivli (W) 421202
(By Adv. Mr. C B Kale) ..Applicant

v/s

1. Union of India
through General Manager,
South Eastern Railway,
Garden Reach, Calcutta 42
2. The Divisional Railway Manager,
South Eastern Railway,
Bilaspur (M.P.)
3. The Chief Workshop Manager,
(WRS) Raipur South Eastern
Railway, M.P.
(By Adv. Mr. Subodh Joshi) ..Respondents

ORDER

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[Per: M R Kolhatkar, Member(A)]

1. In this O.A. the late applicant who retired as DEE in 1986 and who has been substituted by his legal representatives has sought the relief of re-fixation of his pay in the pay scale of Rs.840-1040 as on 1.1.1973 and consequential benefits. The pay of the applicant was fixed at Rs.840 whereas according to the applicant he

ought to have been fixed at Rs.880/=. He states that he has been making representations on this subject and by a letter dt. 19.6.92, the Chief Personnel Officer, South Eastern Railway, Calcutta, addressed to the Divisional Railway Manager(P), S.E. Railway, Bilaspur forwarded the application of the applicant for necessary action. But nothing came out of it.

2. The respondents have contended that there has been no mistake in fixing the pay of the applicant . The applicant was drawing Rs.575/- as on 1.1.1973 in pay scale of Rs.450-25-575 and the same is taken into account for fixation of pay in the IIIrd Pay commission scale Rs.840-40-1040 and ^{he} was fixed at Rs.840 in that scale as the applicants pay on fixation would come to Rs.795 which is less than Rs.840. Further since he is stagnated before 1.1.1973 as such he was allowed two increments @Rs.40/= raising his pay to Rs.920/= as on 2.1.73.

3. The claim of the applicant however is not regarding his pay fixation on 2.1.73 but his contention is that he was entitled to bunching of increments benefit and a higher fixation on

1.1.73. For this purpose the applicant relies on the Note No.3 below Rule 7 to the Railway Services (Revised Pay) Rules 1973. The same reads as below:

"NOTE-3 Where in the fixation of pay under Clause(b) the pay of Railway servant drawing pay at more than 5 consecutive stages in an existing scale gets bunched, i.e., to say gets fixed in the revised scale at the same stage the pay in the revised scale of such of these railway servants for drawing pay beyond first five consecutive stages in the existing scale shall be stepped up up to the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scale in the following manner viz.,

(a) For railway servants drawing pay from the 6th upto the 10th stage in the existing scale - by one increment;

(b) For railway servants drawing pay from the 11th upto the 15th stage in the existing scale, if there is bunching beyond the 10th stage - by two increments;

(c) For railway servants drawing pay from the 16th upto the 20th stage in the existing scale, if there is bunching beyond the 15th stage - by three increments.

If by stepping of the pay as above the pay of a railway servant get fixed at a stage in the revised scale which is higher than the stage in the revised scale at which the pay of a railway servant who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the latter shall also be stepped up only to

the extent by which it falls short that of the former."

4. The contention of the applicant is that since he was drawing maximum of the pay in the pay scale he was entitled to one increment in terms of Note 3 (a) below Rule 7 reproduced above and therefore his pay ought to have been fixed at Rs.840 + 40 = Rs.880 as on 1.1.73 which is quite distinct from two stagnation increments of which the benefit accrued from 2.1.73. On this point the contention of the respondents is that as he got stagnated before 1.1.1973, bunching of increments as claimed by him is not permissible.

5. Ld. Counsel for the respondents wanted to cite certain authorities for this proposition. Though ample time was granted and the ~~case~~ was adjourned many times, no authority has been cited. On the other hand, the written statement filed by the Railway Administration itself shows that in the ready reckoner, the said pay of Rs.575 corresponds to Rs.880 in the revised scale. The respondents have not been able to show to me as to why in view of the position in the rules as discussed by me as well as the ready recknor produced by the respondents themselves, the pay of the applicant was not fixed at Rs.880/- as on 1.1.73 and instead fixed at Rs.840/-.

6. I am therefore of the view that the O.A. succeeds. Applicant is entitled to fixation at Rs.880/- on 1.1.73 and on that basis entitled to refixation of pay on 2.1.73 and to all consequential benefits. The pension of the applicant should also be recalculated and the arrears of pension may be paid to the nominees as per rules. Since the applicant has expired the family pension may also be recalculated and paid to the nominee as per rules. But in the circumstances I make no order as to payment of interest. Action in regard to payment of arrears should be completed within a period of three months. There would be no order as to costs.

M.R.Kolhatkar

(M. R. Kolhatkar)

Member(A)

dr B/11/96
Order/Notice (Unpatched)
to L.P. on behalf of Plaintiff (s)
on 14/11/96

Per Tribunal

Date 17/11/96

Applicant in person by
Advocate / Respondent by
Counsel.

The matter adjourned to
for

Dy. Registrar