

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 778/93

XXXXXXXXXXXXXXXXXXXX

DATE OF DECISION 3.2.1994

Shri S.S.Amrite

Petitioner

Applicant in person

Advocate for the Petitioners

Versus

G.M.C.Rly, Bombay & Anr.

Respondent

Shri S.C.Dhawan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

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 ? *W*
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 ? *W*

(Signature)
(M.S.DESHPANDE)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 778/93

Shri S.S.Amrite

... Applicant

V/S.

General Manager, Central Railway,
Bombay V.T. & Anr.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Applicant in person

Shri S.C.Dhawan
Advocate
for the Applicant

ORAL JUDGEMENT

Dated: 3.2.1994

(PER: M.S.Deshpande, Vice Chairman)

The applicant was employed as an Apprentice PWI in 1957 passed section 'A' of the examination conducted by Institution of Engineers, India, Calcutta in November, 1965 and section 'B' examination in May, 1969 and got the degree A.M.I.E.(Civil) in 1969 which is treated as equivalent to BE.(Civil). An Incentives Scheme was framed by the Ministry of Railways and by the letter dated 14.5.1966 incentives to Class III Railway employees/apprentices for acquiring higher or additional Scientific/Technical/Accounts qualifications were given. Under clause (d) thereof on passing the relevant examinations, the Railway employees/apprentices were to be awarded for passing Part I or 'A' Rs.200/- as Cash Award and for passing Part II or 'B' Two advance increments. These incentives were to be granted only once and not twice ever. Under clause (k) the benefit of incentives was to be admissible from the date following the last date of the prescribed examination and not from the date of publication of results in the grade in which he was

working at the time of passing the relevant examination. The applicant urges that he had been applied for the incentives all along but was not paid the incentives amounts and the matter could not be pursued during the period of 35 years of the service because he had been subjected to 30 transfers to various outline places.

2. By the letter dated 29.5.1989 clause (d) of the Board's letter dated 14.5.1966 was substituted by the following :-

"(d) Passing the relevant examinations, the following rewards shall be given to the railway employees/apprentices :

- (i) for passing part (i) or 'A' or intermediate or prefinal examinations - two advance increments.
- (ii) for passing part (ii) or 'B' or final examination - four advance increments"

and The rest of the earlier instructions regarding the incentives were to continue to be in force. By the letter dated 14.2.1990 (Ex. 'A') the same position was reiterated and that it was decided that the Technical non-gazetted staff who acquire DE/B.Tech. Degree directly may be granted six advance increments as there are no two steps in BE/B.Tech. Examination. By para 3 of that letter it was also clarified that the incentives for acquiring higher Scientific/Accounts/Technical qualification would be admissible in terms of the extant rules, only if the higher qualifications had been acquired fully at the cost of the employee concerned and the Railways had not borne any part of the expenses therefore.

3. The learned counsel for the respondents did not dispute the position that the applicant had acquired the requisite qualification and that if he had applied at the relevant time, he would have entitled to the benefit of the

Circular dated 14.5.1966. It was urged that this was only one time benefit which was to be conferred and those instructions issued on 29.5.1989 and 14.2.1990 which were to apply only prospectively would not cover the applicant's case.

4. With regard to the first point that is of limitation, reference was made to Para 1021 of the Indian Railway Administration and Finance which says that :

" All petty arrear claims other than those that affect an officer's pension, all claims for ^{whose} delayed submission an adequate explanation is not forth coming, and all claims preferred after the expiry of the period prescribed for the preservation of records required for their verification, should be rejected. The General Manager has full powers to sanction investigation of other arrear claims."


It is obvious that the applicant's claim if granted would affect his pension and would not therefore fall in the first category and since all that was required for giving the applicant the benefit ^{of} ~~for~~ incentives scheme was that the certificate which shows that he got the necessary qualification, it was not necessary to look into the respondents' record for verification. Shri Dhawan contended that the applicant would be covered by the second clause because no explanation was forth-coming for the delayed submission of the claim. It must be noted that the applicant has averred that he has been applying all along ~~for~~ all this time and that is ~~merely~~ ^{me} denied by the respondents. It is difficult to believe that ^{me} who acquired higher qualification ~~could~~ not pursue the matter which would have brought him additional financial benefit and I see no reason to disbelieve the applicant's version on this point.

W. L. S.

By his letter dated 6.5.1991 the applicant had referred to his earlier letter dated 30.1.1991 in which he had mentioned that he had acquired the necessary qualifications and would be entitled to the incentives. Learned counsel for the respondents produced a copy of that letter at the time of hearing and this letter would support the applicant's version regarding his version that he has been asking for the benefit all along. The applicant's claim cannot therefore be ignored on the basis of Para 1021 of the Indian Railway Administration and Finance. This claim was rejected by the letter dated 19.10.1992 (Ex.'D'). However, under Section 21 of the Administrative Tribunals Act, the applicant would be entitled to claim the amount of increment which would have drawn for one year and which would not have paid to him within the period of one year.

5. It must be noted that in the scheme formulated in May, 1966 no time limit was prescribed for claiming or granting the incentives and so was the case with the Circulars dated 29.5.1989 and 14.2.1990 by which the incentives were raised. The deprival to the applicant of the financial benefit to which he would have been entitled would be recurring benefit on the basis of the incentives and no objection can be raised on the ground of limitation to the fixation. The applicant would have been entitled ^{to fixation} because there was no denial of the claim by the respondents earlier but only to the actual amount which the applicant would be entitled to claim.

6. The applicant who argued his case in person urged that he would be entitled not only to two increments which were mentioned in the Circular Dated May, 1966 but also to

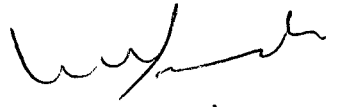


the two and four increments which were to be given by the letter dated 29.5.1989. It must be noted that the applicant would have been entitled ^{only to} ~~of the~~ May, 1966 Circular which was then prevailing in view of the additional qualification acquired in November, 1969 and May, 1969 and that was ^{to be} ~~the~~ one time benefit. The claim of Rs.200/- for passing section 'A' in November, 1965 would be barred by time as the present application was filed on 4.8.1993. He would, however, be entitled to fixation on the basis of the incentive of being granted two additional increments for passing section 'B' in 1969 on the basis of letter dated May, 1966 in the cadre in which he was working then. According to the applicant, he would also get the benefit under the scheme as modified on 29.5.1989. The language of the letter dated 29.5.1989 shows that the benefit which was to be conferred by the original clause (d) was enhanced while retaining the rest of the contents of the letter dated 14.5.1966. The letter dated 29.5.1989 was not to apply retrospectively and could not have lifted the bar that the benefit was to be conferred by the letter dated 14.5.1966 only once on the basis of passing the relevant examinations. The applicant cannot therefore be ^{granted} ~~deprived~~ of the benefit of the Circular dated 29.5.1989 and 14.2.1990 and would ^{not} ~~be~~ entitled to six additional advance increments as urged.

7. The applicant submitted that those who were promoted from Group 'C' and became officers were however granted six increments. There is no such pleading by the applicant and if the applicant's colleagues came to be promoted from Group 'C' and became officers, they would not come within the scheme because it applies only to Group 'C' Railway employees who acquired additional qualifications.

8. All that can be granted to the applicant would be fixation in the cadre to which he belonged at the time of passing section 'B' examination in May, 1969, his pay will have to be raised for May, 1969 by granting him two advance increments and on the basis of this notional fixation his entitlements at the time of his superannuation shall have to be worked out and the applicant would be entitled only to the monetary benefit which he would have got only in the last year by virtue of the two advance increments having been granted in May, 1969 in the original cadre. He will also be entitled to the revision of his pension and gratuity on the basis of the pay so fixed in December, 1992 when he retired from service.

9. The application is allowed to this extent and the respondents are directed to calculate and pay the dues of the applicant and revise his retiral benefits on that basis within four months from the date of receipt of a copy of this order by the respondents.


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

Review Petition No.45/94

in

Original Application No.778/93.

Shri S.S.Amrite

..... Applicant.

V/s.

Union of India & Anr.

..... Respondents.

ORDER ON REVIEW PETITION NO.45/94.

Tribunal's Order :-

Dated: 24.3.1994.

[Per Shri Justice M.S.Deshpande, Vice-Chairman]

All the points which have been raised by the Review Petition were substantially considered in the main Judgment delivered in the Original Application and no ground has been made out for entertaining the Review Petition. It is dismissed.


(M.S.DESHPANDE)
VICE-CHAIRMAN

B.

m.p.no 836/95
for on
held on 18/12/95

c.p.no 162/95
held on order
on 18/12/95

2
23711

Dated: 18.12.95 (31)

Heard Applicant in person and
Shri S.C.Dhawan, counsel for the
respondents.

Applicant has filed C.P. 162/95
against the dismissal of C.P. 6/95.
The applicant was not able to explain
under what provision he has filed the
2nd C.P. In our view the 2nd C.P. is
not maintainable and the same is hereby
dismissed.

The applicant has also filed an
M.P. 836/95 praying that C.P. 6/95 be
revived and O.A. 730/94 and O.A. 778/93
be heard together. O.A. 730/94 has
already been placed in Sine-die list
and O.A. 778/93 has already been disposed
of as back as 3.2.94 and therefore the
M.P. 836/95 does not survive.

Copy of the order be given to the
parties.

18/12/95
order/J
to Ap
on 12/1/96
despatched
to Agent (s)

12/1

V
10/0

M.R. Kolhatkar
(M.R. Kolhatkar)
Member (A)

B.S. Hegde
(B.S. Hegde)
Member (J)

NS

Appeal against the
order of 3/2/94 on
merit, It is dismissed
by the S.C. on 25/10/96.
(Sharma 9078/94)

13/12/96