

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 74/94
Transfer Application No.

Date of Decision : 8/3/96

Narahar Joshi.

Petitioner

Advocate for the
Petitioners

Versus

Union of India & Ors.

Respondents

Shri V.S.Masurkar.

Advocate for the
respondents

C O R A M :

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

The Hon'ble Shri

(1) To be referred to the Reporter or not ? X

(2) Whether it needs to be circulated to X
other Benches of the Tribunal?

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 74 / 1994.

Pronounced, this the 8th day of March 1996.

Coram: Hon'ble Shri M.R.Kolhatkar, Member(A).
Narahar Joshi. ... Applicant.

(None for the applicant)

V/s.

Union of India & Ors. ... Respondents.
(By Shri V.S.Masurkar, counsel).

O R D E R

(Per : Shri M.R.Kolhatkar, Member(A))

In this original application, the applicant who had joined Railways as a direct recruit on the recommendation of the U.P.S.C. in 1960 was working under Chief Engineer, Southern Command before joining the Railways. At the time of his appointment it was communicated that for persons already in government service question of higher initial start would be considered provided their present pay in the authorised scale of pay for Central Government servants inclusive of dearness pay and allowances if any exceeds Rs.375/- p.m. and the amount is certified by the head of the office or department concerned. The applicant states that he was able to get the requisite certificate from his previous department only in September, 1982. Ultimately, the Railway Board conveyed the sanction by their letter dt. 3.11.1989 (Ex. A-6 page.16) in the following terms:

"2. Board have considered the request of Shri N.S.Joshi, Ex-Dy.Chief Engineer(Constn./HQ,

Central Railway and decided that Shri Joshi may be allowed the benefit of fixation of pay at Rs.450/- PM in the authorised scale of Rs.400-950 from the date of his appointment as temporary Assistant Officer on the Railways.

3. Board, however, desire that before the benefit of higher fixation of pay is allowed to Shri Joshi, FA & CAO/Central Railway may ensure that his initial pay on appointment as temporary Assistant Officer on the Railways was fixed at Rs.400/- (2nd stage) in the authorised scale of Rs.400-950 on the basis of his pay in the previous Central/State Govt. Department."

According to the applicant he had to pursue the matter at various levels, but till the date of filing of the application viz. 12.1.1994 he did not receive any arrears. The last representation made by him ~~xxxx~~ dt. 15.12.1993 was to the Chief Personnel Officer, Central Railway, Bombay. It may be noted that the sanction of the Railway Board was conveyed after superannuation of the applicant in 1988. The applicant has claimed an amount of Rs.1,10,000/- vide Ex.A-21. Rs.11,300/- as the amount due on account of proper pay fixation from 1960 up to 1976 + 80% on account of D.A./ A.D.A. Ad hoc D.A. Rs.9040/-, total Rs.20,340/- + interest at the rate of 18% p.a. for 25 years ~~Rs.~~ 90,000/- total : Rs.1,10,000/-.

2. The Respondents contend that the Railway Board's sanction was conveyed on 3.11.1989, but the Railway Board's Order specifically did not convey the sanction order or order of payment of arrears from December, 1960 to December, 1978 as required under Rule 1011 and 1004 of Indian Railway Establishment Manual. Due to non-availability of records of service of the applicants in respect of these long past years there

was delay. Ultimately, requisite sanction was conveyed by the Railway Board by its letter dt. 24.10.1994 and thereafter an amount of Rs.12,195/- was duly paid as full and final settlement towards the claim of the applicant by cheque dt. 2.12.1994. The applicant, however, contended in Rejoinder that the arrears of pay fixation did not take account of grant of stagnation increments nor has interest been paid. In the sur-rejoinder, the Railways have stated that the claim of the applicant pertains to the years 1960 to 1978 whereas the scheme of stagnation increments was introduced by the Railway Ministry only w.e.f. 27.7.1989 which applies to Group 'B', 'C' and 'D' posts and therefore, he is not entitled to any stagnation increments. The Respondents have also denied that applicant is entitled to any interest. I am inclined to accept the contention of the Respondents that applicant is not entitled to any stagnation increments. The pay fixation having been done and the arrears having been paid for the period 1960 to 1978, the short question for decision is whether the applicant is entitled for any interest and also for costs of Rs.5,000/- as claimed by him. The applicant claims interest for 25 years. However, an essential pre-condition for re-fixation viz. the certificate of the previous employer was fulfilled by him only in 1982. The "in principle" sanction of the Railway Board was conveyed on 3.11.89 but the Railway Board took about 5 years to issue detailed sanction.

Am It is also notable that the detailed sanction was

issued only after the filing of the application. It would be reasonable to expect the Railway Board to ensure implementation of ~~their~~ in principle sanction within a year thereof i.e. to say payment ought to have been made by 3.12.1990. The payment, however, actually was made only on 2.12.1994. If looked at from another point of view, the applicant could be considered to be entitled to the payment of interest at least three years prior to the filing of the application i.e. to say from 12.1.1991. This, more or less, coincides with the earlier date arrived at by me viz. 3.12.1990. I, therefore, hold that the Respondents have been negligent of inordinate delay in implementing their own orders and in subjecting a retired Railway employee to avoidable hardship and he is therefore entitled to interest on the amount paid to him at the rate of 18% w.e.f. 12.1.1991 till the date of actual payment ~~viz. 2.12.1991 till the date of actual payment viz.~~ 2.12.1994. Respondents are directed to make payment of interest within three months of the communication of the order. There will be no orders as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

B.