

(B)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR

O.A. No. 1019/92 : Date of order 18.2.94

Ganeshi Lal Solanki : Applicant  
v/s

Union of India & Ors : Respondents

Mr. J.K. Kaushik : Counsel for the applicant

Mr. C.C. Jain : Counsel for the respondents

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Hon'ble Mr. Gopal Krishna, Member (J)

Hon'ble Mr. O.P. Sharma, Member (A)

AS PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

Mr. Ganeshi Lal Solanki has filed this application u/s 19 of the Central Administrative Tribunals Act, 1985, praying that he should be granted regular increments from 1.8.85 to 31.10.87.

2. After a charge sheet under rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968 was issued to the applicant and inquiry was held, a penalty of reduction to lower stage in the time scale of Rs. 700-900(R) was imposed on the applicant for a period of two years without future effect, vide Annexure A-1 dated 12.7.85. Subsequently after following the prescribed procedure, the penalty was enhanced vide Annexure- A-3 dated 11.2.86 to reduction to the lower post of SM/ASM in scale Rs.550-750(R) on pay Rs. 750/- for indefinite period, "until he is found fit by the Competent authority to be restored to the higher post." Subsequently the applicant was restored to the higher post from which he was reduced by order which was effective from 1.4.87. The scale of pay corresponding to old scale 700-900, after implementation of the recommendation of the Fourth Pay Commission, was Rs. 2000-3200. The applicant retired from service on 31.10.87. The applicant is claiming regular increments for the period from 1.8.85 to 31.10.87. The reason for claiming regular increments from 1.8.85 is that it was from this date that initial penalty of reduction to a lower stage in the time scale of Rs. 700-900 was made effective. The applicant's case is that once he has been found fit to be restored to the higher post from which he was reduced by order Annexure A-3 dated 11.2.86, he was entitled to increments for the period during which he stood reduced to the lower post.

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3. During the arguments the learned counsel for the applicant stated that it was not a case of reduction to the lower post without further directions regarding condition of restoration. Instead it was a case where the reduction was ordered with the condition that he would be restored to the higher post if he was found fit. Therefore, he was entitled to increments, on restoration to the higher post, for the period during which he stood reduced to the lower post. Further since the authority passing order Annexure A-3 dated 11.2.86 had not specified that applicant would not earn increments during the period for which he was reduced to the lower post, he was entitled to increments for the said period on restoration to the original post.

4. The respondents in the reply have stated that initially the applicant was awarded penalty of reduction to a lower stage in the pay scale of Rs. 700-900 on pay Rs. 795/- p.m. for a period of two years. The penalty was enhanced by the competent authority to reduction to the lower post of SM/ASM in scale Rs. 550-750(R) on pay Rs. 750/- P.M. for indefinite period till the applicant was found fit for restoration to the original post. On review by the competent authority, the applicant was considered fit for promotion to the original post and accordingly he was once again promoted to in the scale Rs. 700-900 w.e.f. 1.4.87. Therefore, he was not entitled to regular increments for the period from 1.8.85 to 31.10.87.

5. We have heard the learned counsel for the applicant and Mr. Mahendra Kumar Sharma, Sr. Personnel Inspector, Departmental representative, for the respondents and have gone through the records.

6. The penalty imposed on applicant vide Annexure A-3 dated 11.2.86 was as per item (vi) of Rule 6 of the Railway Servants ( Discipline & Appeal) Rules, 1968. The said item reads as follows:-

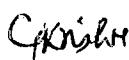
"Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from the Railway Servant was reduced and his seniority and pay on such restoration to that grade post or service."

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7. In the order imposing this penalty, there are no directions regarding the conditions of restoration to the original post and the penalty imposed was imposed for an indefinite period. The mere mention that the penalty is imposed for an indefinite period until the applicant is found fit to be restored to the original higher post, does not mean that the conditions for restoration were specified in the penalty order. There are no directions contained in order Annexure A-3, for example regarding the pay at which the applicant is to be fixed on restoration to the higher post and earning of increments during the period in which he stood reduced to the lower post. The effect of absence of such directions, in our view, is that the competent authority, on restoring the applicant to the higher post, is entitled to fix the pay of applicant at a stage at which it considers appropriate. The absence of directions regarding earning of increments during the period for which the applicant stood reduced to the lower post cannot be understood to mean that the applicant would be entitled to increments for that period. The applicant would have been entitled to increments for that period only if there had been specific directions to that effect in the order imposing penalty. We do not find any irregularity on the part of the respondents in not granting increments for the period during which the applicant stood reduced to the lower post, in view of the nature ~~of~~ <sup>and</sup> the wording of the order Annexure A-3.

8. In the result the application is dismissed with no order as to costs.

  
(O.P. Sharma)  
MEMBER (A)

  
(Gopal Krishna)  
MEMBER (J)