

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 449/91 198
T.A. No.

DATE OF DECISION 22.6.92

Mr. M.H. Pakyam Petitioner
Mr. GV Subba Rao Advocate for the Petitioner(s)
Versus
Sr. Divisional Personnel Officer Respondent
SCRly, Vijayawada
Mr. NV Ramana Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.C. JAIN, MEMBER (ADMN) PRINCIPAL BENCH

The Hon'ble Mr. T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*.
2. To be referred to the Reporter or not? *No*.
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*.
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*.

MGIPRND-12 CAT/86-3-12-85-15,000

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(HPCJ)
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : : HYDERABAD BENCH
AT HYDERABAD

DA.449/91

Date of Decision : 22-6-1992

Between

M.H. Pakyam

: Applicant

and

1. Senior Divisional Personnel Officer
South Central Railway
Vijayawada

2. Senior Divisional Commercial Superintendent
South Central Railway
Vijayawada

3. General Manager
South Central Railway
Rail Nilayam
Secunderabad

: Respondents.

Counsel for the applicant

: G.V. Subba Rao
Advocate

Counsel for the respondents

: N.V. Ramana
Standing Counsel for Railways

CORAM :

HON. Mr. P.C. JAIN, MEMBER(ADMN.), PRINCIPAL BENCH

HON. Mr. T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

(Order of the Division Bench delivered by Hon.P.C. Jain,
Member (Admn.)

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The applicant, who was Goods Supervisor, retired on superannuation on 31-12-1979. He filed this OA impugning the communication dated 23-5-1989 (at pp.12 of the paper book) and prayed for ^{quashing} ~~the~~ the aforesaid impugned communication. ~~_____~~ He has further prayed :-

" and consequently direct the respondents to grant him the increments from 1-9-1976 consequent on his passing the EB examination, to fix his pay with effect from 1-1-1979 in Rs. 550-750 grade at Rs.650 and re-fix his pension at Rs.413/- with effect from 1-1-1980 and pay him the arrears of salary, allowances, and pensionary benefits i.e. gratuity, pension, commuted value of pension, leave encashment etc. with interest at 18% at market rate and award costs."

2. By the impugned order dated 23-5-1989, he was informed with reference to his representation dated 16-9-1988, that after examination of his case in detail, it was found that the advance increment granted to him with effect from 1-6-1974 was incorrect as he was not a loyal employee. This communication further states that the increments already sanctioned require further revision as given therein and that his case is being thoroughly examined and the over payment, if any, will be advised to him for remitting the same to the Railways.

3. It appears ^{that} his case ^{further} was examined and he was found to be a loyal worker. Accordingly, the ^{advance} increment given to him with effect from 1-6-1974 ^{raising} his pay from Rs.515 to Rs.530 in the scale of Rs.455-700 was ^{found to be} correct. It was also ordered that consequent on his promotion as Goods Supervisor

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with effect from 1-1-1979, his pay has now been revised to Rs.650/- with effect from 1-1-1979 in the scale of Rs.550-750 (RS). Regarding this refixation of pay on promotion (from Rs.630 earlier fixed to Rs.650 now fixed), orders were issued by memorandum dated 21-10-1991, a copy of which has been produced before us by the learned counsel for the applicant. His pension has also been revised from the initial date i.e. 1-1-1980 from Rs.401/- to Rs.413/- alongwith revision of his DCRG from Rs.13,201 to Rs.13,621 and leave encashment from Rs.5,090.66 to Rs.5252. These orders are contained in the communication dated 22-10-1991 addressed to the applicant, a copy of which has been produced before us.

4. From the above, it is clear that the increment given to him from 1-6-1974 on account of his being loyal in 1973 Railway strike, and which was threatened to be taken away vide impugned order dated 23-5-1989 has been allowed to stay. The communication dated 22-10-1991 specifically states that the letter dated 23-5-1989 in disposal of representation dated 16-10-1988 may please be treated as cancelled. Thus, his prayer for quashing the impugned order dated 23-5-1989 no more survives. Similarly, the content of the impugned order about the threatened revision of the sanction of the ~~advance~~ increment from 1-6-1974 also no more survives. His pay on promotion as Goods Supervisor with effect from 1-1-1979 has also been ~~referred~~ ^{as stated} as stated above and thus nothing remains on this point also.

5. The learned counsel for the applicant urged before us that (i) ~~the~~ ^{a.} applicant has not been allowed the arrears of pay and allowance ^{a.} admissible thereon ~~on~~ on account of upward revision of his pay on the promotional post from Rs.630/- to Rs.650/- with effect from 1-1-1979, and that ~~—————~~ (ii) he ~~has~~ ^{has} not been allowed the arrears of pay on account of grant of increment due at the stage of Efficiency Bar with

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effect from 1-1-1976. We have carefully considered these contentions and find that the orders making him eligible for the increment at the stage of Efficiency Bar had been issued in April/May, 1979 as per the sanction letter shown to us by the learned counsel for the applicant. Any relief in this regard, therefore, is outside the jurisdiction of the Tribunal, the cause of action having accrued prior to three years of the coming into effect of the Administrative Tribunals Act, 1985 (V.K. Mehra Vs. Ministry of Information and Broadcasting, New Delhi, ATR 1986, CAT 203; Sukumar Dey Vs. Union of India (1987) 3 ATC 427, CAT, (Calcutta); V.S. Raghavan Vs. Secretary to the Ministry of Defence (1987) 3 ATC 602, CAT, Madras).

6. It may also be stated that the grant of increment at the stage of Efficiency Bar in the time scale of pay has nothing to do with the grant of advance increment on account of his having remained loyal during the Railway strike. The increment due at the stage of Efficiency Bar is regulated in accordance with the relevant rules and orders on the subject.

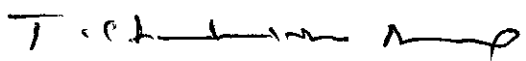
Accordingly, the revision of the pay of the applicant on the promotional posts with effect from 1-1-1979 and consequently revision of his pensionary benefits has nothing to do with the grant of increment at the stage of Efficiency Bar about which orders, as already noticed above, had been issued in 1979 before the applicant retired on superannuation and if he had any grievances in this regard, he should have approached the competent Court of Law for appropriate relief within the limitation prescribed under the Limitation Act, 1963. Having failed to take any action within the limitation prescribed, and the relief now prayed for in this respect being


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outside our jurisdiction, this cannot be granted to the applicant by us.

7. As regards the prayer for arrears of salary and allowances on account of revision of pay from Rs.630/- to Rs.650/- with effect from 1-1-1979, the learned counsel for the respondents has not been able to state whether these arrears have been paid to the applicant or not. The learned counsel for the applicant reiterated that these have not been paid to the applicant. The cause of action in this regard having arisen in pursuance of the issue of memorandum dated 21-10-1991, we dispose of this OA with the direction that the applicant shall be paid the arrears of salary and allowances admissible thereon on account of refixation of his pay at Rs.650/- in the scale of Rs.550-750(RS) from 1-1-1979, if not already paid. This direction shall be complied-with within a period of three months from the date of receipt of a copy of this order by the respondents. The OA in regard to other reliefs has become infructuous or is outside our jurisdiction as discussed in the preceding paras. No costs.


(T.CHANDRASEKHARA REDDY)
Member(Judl.)


(P.C. JAIN)
Member(Admn)

Dated June 22, 1992


Deputy Registrar

Dictated in the open court

To

1. The Senior Divisional Personnel Officer,
sk S.C.Rly, Vijayawada.
2. The Senior Divisional Commercial Superintendent, S.C.Rly, Vijayawada.
3. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N. V.Ramana, SC for Rlys, CAT.Hyd.
6. One copy to Hon'ble Mr.T.Chandrasekhar Reddy, M(J)CAT.Hyd.
7. One spare copy.

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