

(42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.65/93

Dt.of order:09.06.1995

Between

M.L.Narasimha Murthy

.. Applicant

and

1. Railway Board rep by
Member Secretary, Railway Bhavan, New Delhi
2. South Eastern Railway rep by
Chief Personnel Officer, SERly, Garden Reach, Calcutta-43
3. Chief Administrative Officer(Cons.)
SERly, Visakhapatnam, Andhra Pradesh .. Respondents

Counsel for the Applicant

:: Mr P.Naveen Rao

Counsel for the Respondents

:: Mr D. Francis Paul,
SC for Rlys

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE-CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER(ADMN)

...2

O.A.65/93

Dt. of order: 9.6.1995

ORDER

As per Hon'ble Shri Justice V. Neeladri Rao, Vice-Chairman

Heard Sri P. Naveen Rao, learned counsel for the applicant and Sri D. Francis Paul, ^{learned} Standing Counsel for the respondents.

2. The applicant was holding a Diploma in Mechanical Engineering (L.M.E) by the time, he was recruited as Apprentice Chargement 'B' w.e.f. 1.3.1986. On completion of two years training, his services as Chargeman ~~was~~ ^{were} regularised w.e.f. 1.3.1988. He appeared for B.Tech (Mechanical) examination conducted by JNTU, AP, Hyderabad from December, 1988 to January, 1989 and passed the said examination as per exhibit at Annexure 'E' to the OA, issued on 10.5.1989.

3. The Railway Board letter No.E(NG)/64RC1/25 dated 14.5.1966 comprises various incentive schemes that were granted to Class III (present Group 'C') employees in Railways. It envisages sanction of Cash Award of Rs.200/- for passing Part I or 'A' Intermediate or pre-final examination ^{of AMIE} and Two advance increments for passing Part II or 'B' of Final Examination of A.M.I.E.

4. Clause (k) of the said letter states that the cash award/advance increments have to be given from the date following the last date of the prescribed examination and not from the date of publication of results.

5. The scheme as per the letter dated 14.5.1966 cited supra was extended from time to time and it had been extended upto 30.6.1988 as per the Ministry's letter dated 24.3.1988.

44

...3...

6. The Railway Board had issued a letter No.E(NG)/I/87/IC2/1 dated 29.5.1989 para 1 and 2 of which reads as follows:

"Sub:Incentives for acquiring higher scientific/
Accounts/Technical qualification

Reference this Ministry's letter No.E(NG)/64/RCI/25 dated 18.5.1966 laying down an incentive for Group 'C' Railway Employees who acquire additional scientific/technical/accounts qualifications. The currency of this scheme has been extended from time to time. The last extension being upto 30.6.1988 vide this Ministry's letter of even no. dated 24.3.1988.

2. Pursuant to the recommendations of the IV Pay Commission the Min. of Railways have reviewed the existing incentive schemes as aforesaid and have decided that the existing scheme as contained in their letter No.E(NG)/64/RCI/25 dated 14.5.66 read with their letter No.E(NG)/II/72/IC2/1 dated 10.3.72 should continue to be in force until further order except that para (d) of the Board's letter dated 14.5.66 would be substituted by the following:

"On passing the relevant examinations, the following awards shall be given to the railway employees/apprentices.

- (i) For passing Part (i) or 'A' or intermediate or pre-final examinations - two advance increments.
- (ii) For passing Part (ii) of 'B' or Final examination - Four advance increments."

3. xx xx xx xx xx "

7. The Railway Board's letter No.E(NG)/1/87/IC2/1 dated 14.2.1990 states that the technical non-gazetted staff who acquired BE/B Tech degree directly may be granted six advance increments as there are no stages in BE/BTech examination, while there are two stages in AMIE examination. It is rightly stated for the applicant that as there are two stages in AMIE examination, the same were referred to as separate stages for granting advance increments as per Railway Board letter dated 14.5.66 which was extended with modification by Railway Board letter dated 29.5.89 and as there are no two

...4

separate stages in BE/BTech examination, it is stated in Railway Board letter dated 14.2.90 that all the six advance increments have to be given once.

8. The applicant herein is a non-gazetted technical staff. The qualification prescribed for the post of Chargemena 'B' for which he was recruited was L.M.E. He acquired B.Tech degree while he was in service. The provisional certificate for passing B.Tech examination has been issued on 10.5.1989 whereas the examinations had been conducted from December, 1988 to January, 1989. The respondents granted only 2 advance increments to the applicant on the basis that he acquired B.Tech degree prior to 29.5.89, the date of Railway Board letter by which, the advance increments were ~~increased~~ increased from 2 to 6 by way of incentive and hence, the applicant is entitled to only two advance increments and not six.

9. But the learned counsel for the applicant submitted that the Railway Board letter dated 29.5.89 makes it clear that the incentive as per Railway Board letter dated 14.5.66 was being continued with the modification and the said ^{continuation} ~~with~~ modification should be held as from 1.7.1988 as the earlier extension, vide letter dated 24.3.1988 was only upto 30.6.1988. It is also brought to the notice of this Bench that the Madras Bench upheld the said contention in OA 1013/90 and the same was also followed ^{by a} Bench at Hyderabad as per order dated 27.1.1995 in OA 1043/91.

10. The learned counsel for the respondents submitted that under Rule 809 of the Indian Railway Code for Accounts Department Part I (Revised Edition) 1984, all sanctions take

effect from the date of issue unless it is specified otherwise in the sanction order and hence, the letter dated 29.5.89 had to be held as prospective and as such, it is applicable only for those who passed the BE/BTech examination the last date for which is on or after 29.5.89.

11. It is further submitted for the respondents that the same is clarified by letter No.E(NG)I/89/IC2/1(PT) dated 4.9.90. The letter dated 4.9.90 is referred to by way of clarification of the letter dated 29.5.89. Therein it is mentioned that the increase in the advance increments will be effective from 29.5.89 only. But it is not by way of amendment of the letter dated 29.5.89.

12. Para 2 of the letter dated 29.5.89 makes it clear that until further orders, the incentive scheme as per letter dated 14.5.66 is continued with modification in regard to para (d) which prescribes the number of advance increments. In para 1 of the letter dated 29.5.89, it is mentioned that the scheme as per letter dated 14.5.66 which is in force and extended from time to time has been extended upto 30.6.88. Hence, when it is stated in para 2 as continuation of the scheme the said continuation has to be held as from 1.7.1988. Para 2 of the letter dated 29.5.89 makes it clear that the continuation is with modification of para (d) of the letter dated 14.5.66. If the contention for the respondents has to be upheld, then we have to read ~~x~~ that the continuation upto 29.5.89 is without modification of para (d), and continuation from 29.5.89 is as per the modification made therein. Unless there is ambiguity, or it results in absurdity, it will not be just and proper to add or delete words for interpreting the statutory provision. The same rule of interpretation can be adopted even in regard to the ~~xxx~~

42

executive instructions which are issued by way of sanction incentives. So, we are in full agreement with the view expressed by the Madras Bench as per their order dated 28.1.1992 in OA 1013/90 which was followed by a Bench at Hyderabad as per Judgement dated 27.1.1995 in OA 1043/91, in regard to the consideration of scope of the letter dated 29.5.1989.

13. The Madras Bench held that as vested right was conferred by letter dated 29.5.1989, the same cannot be withdrawn with re-trospective effect by letter dated 4.9.90. But, we also observed that it is only in the nature of clarification and not by way of amendment of the letter dated 29.5.89. The clarification merely indicates the way in which the letter dated 29.5.89 was interpreted by the Railway Board, and it cannot be treated as an amendment of the earlier letter dated 29.5.89. Be that as it may, we have to hold that the applicant before us is also entitled to the enhanced advance increments as per letter dated 29.5.89 as the last date of the examination in regard to which he passed was in January, 1989, for we held that the benefit of advance increment accrues to the applicant with effect from 1.7.1988 and not from 29.5.1989 as contended by the respondents and the letter dated 4.9.90 is not by way of amendment. Even Rule 809 referred to by the respondents envisages that sanction can be had from a date earlier to the date of order if it is so specified. It may be specified explicitly or by implication. By a reading of the letter dated 29.5.89, we have come to the conclusion that it implicitly states that the modification

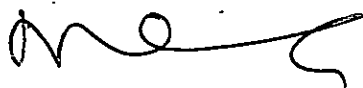
8621

..7...

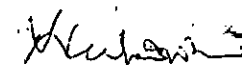
with reference to the enhancements of advance increments is from 01.07.1988 and not from 29.5.1989.

14. In the result, the OA is disposed of as under:
The applicant has to be given benefit of remaining 4 advance increments from the date on which he was granted two advance increments.

15. No costs. /



(R. RANGARAJAN)
Member(Admn)



(V. NEELADRI RAO)
Member(Judl.)

Dated: The 9th June, 1995

Dictated in the open court Deputy Registrar (J) CC

mvl
9695

To

1. The Member-Secretary, Railway Board,
Railway Bhavan, New Delhi.
2. The Chief Personal Officer, S.E.Rly,
Garden Reach, Calcutta-43.
3. The Chief Administrative Officer(Con)
S.E.Rlys. Visakhapatnam, A.P.
4. One copy to Mr.P.Naveen Rao, Advocate, CAT.Hyd.
5. One copy to Mr.D.Francis Paul, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

15/6/95

THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M (ADMN))

DATED 9/6 1995.

~~ORDER~~/JUDGMENT:

M.A./R.A./C.A.No.

OA.No. in 65/93

TA.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No.order as to costs.

No spare copy

