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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1413-of 1994

DATE OF ORDER:16.7.96

BETWEEN:

T.G.M.PILLAI

.. Applicant

and

1. Union of India represented by
the General Manager,
South Central Railway,
Secunderabad,

.. the
S.C.Railway,
Secunderabad.

.. Respondents

COUNSEL FOR THE APPLICANT: Shri P.N.A.CHRISTIAN

CORAM:

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

JUDGEMENT

Heard Shri PNA Christian, learned counsel for the applicant and Shri V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant in this case is a grade of Rs.425-700 to Rs.550-900 directly with effect from 1.8.70. The Railway Board issued the Establishment Serial Circular No.196/67 (letter No.P(R) 438/I) dated 10.8.1967 (Annexure I) clarifying the method of fixation of pay when an employee is promoted to a higher scale from

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the lower scale skipping the intermediary scale in between higher scale and the lower scale. As per that circular even though he skips middle scale and jumps to the higher scale, his pay should be fixed as per F.R. 22-C in the middle scale and with respect to that his pay in the higher scale has to be fixed. In pursuance of that Establishment Serial Circular No.196/67 the applicant when he was promoted from the grade of Rs.425-700 to Rs.550-900, his pay was fixed vide Memo No.P/EST/608/CA dated 6/7th May 1981 (Annexure-II). The above fixation was confirmed by Memo NO.P/EST/333/Steno dated 11.5.1982 (Annexure-III). However, the Railway Board vide letter No.C.III/78/PS-3/5,pt.I dated 30.8.84 (Annexure-IV) has withdrawn the Establishment Serial Circular No.196/67 dated 10.8.67 and directed all the Indian Railways and others that whenever an employee is promoted from the lower scale to the higher scale skipping intermediary scale, his pay in the intermediary scale should be fixed following FR 22-C and to the higher scale thereafter following FR 22(a)(ii) (Rule 2017 R-II). Accordingly the letter dated 30.8.84 from February 1987. Some of the applicants filed OA Nos.324 and 343/86 on the file of Madras Bench of this Tribunal praying for quashing of the instructions issued vide letter dated 30.8.84. The Madras Bench had set-aside the instructions issued vide letter dated 30.8.84 and directed the Railways to follow the 10.8.67.. Accordingly a fresh Circular

No.F(P&A)II/PC.III/78/PS-3/5/Pt.I dated 14.8.87 was issued restoring to the position which existed in accordance with the Establishment Serial Circular No.196/67 dated 10.8.67. However, in the Circular dated 14.8.87 in Para 3, it was clarified as follows:-

"that such of those senior stenographers who may be promoted from grade Rs.425-700 directly to grade Rs.550-900 in the pre-revised scales will not be eligible to claim the benefit of stepping up of pay with reference to Juniors in grade Rs.550-900 since the basic condition for stepping of pay cannot be satisfied in these cases".

As per the above clarification, persons who were promoted directly to the highest grade from lowest grade skipping intermediary grade will lose the benefit as given in Establishment Serial Circular No.196/67 dated 10.8.67. In view of the circumstances, Shri K.V.Govindan and 11 others challenged the circular by filing O.A.No.470/88 on the file of Bombay Bench of this Tribunal. That OA was disposed of by the judgment dated 22.8.91 (Annexure-VII). It was held in that judgement that the applicants therein are entitled to fixation of pay under Rule 2018(b) R.II on the basis of the deemed promotion in the intermediary grade of Rs.550-750 and the consequential benefits resulting there from and the order dated 14.8.87 stands quashed to that extent. In view of the above judgement, fixation of pay of an employee who was promoted from the

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lowest grade to the highest grade skipping intermediary grade has to be fixed in accordance with the Establishment Serial Circular No.196/67 dated 10.8.67 (Annexure I).

3. After issue of the judgment, the applicant filed a number of representations to re-fix his pay in accordance with the judgment of the Bombay Bench of the Tribunal in OA 470/88. It is stated that those representations were not disposed of as yet.

4. Aggrieved by the above, the applicant has filed this OA praying for a direction to the respondents to fix his pay strictly in accordance with the Establishment Serial Circular No.196/67 dated 10.8.67.

5. A reply has been filed resisting the prayer. In Para 4 of the reply it is stated that in terms of the Railways Board's letter dated 14.8.87 (Annexure VI) the applicant is not eligible for stepping up of pay with reference to his juniors in the grade of Rs.550-900 since the Board's decision of stepping up of pay is not satisfied in this case. But the judgement in OA 470/88 on the file of the Bombay Bench of this Tribunal had already quashed the letter dated 14.8.87 and restored the instructions as per Establishment Serial Circular No.196/67 dated 10.8.67. Hence this contention has no value at all. In Para 7 of the reply it is stated that no instructions have been issued by the Railway Board regarding implementation of the judgement.



the absence of the Railway Board's letter regarding quashing of the Board's letter dated 14.8.87 the relief sought by the applicant cannot be extended to him. This contention is unwarranted. When the Tribunal has quashed the letter dated 14.8.87 especially the clarification in para 3 of that letter, it is for the Railways to carry out those directions. Merely Railway Board has not issued any circular, it does not mean that the direction given by the Bombay Bench of the Tribunal is not to be followed. The Respondents have to implement those directions given in OA 470/88, even if no instructions have been issued by the Railway Board. Hence this contention also has no meaning in rejecting the case of the applicant for stepping up of his pay on par with his juniors in accordance with the

be held that the applicant's salary when he was promoted to the grade of Rs.550-900 from Rs.425-700 skipping the intermediary grade of Rs.300-400 was in accordance with the Establishment Serial Circular No.196/67 dated 10.8.67.

6. The applicant had retired on 30.6.90 as Confidential Assistant in the grade of Rs.2000-3200 (RSRP). Hence his pension has to be calculated on account his notional pay at the time of his retirement notionally fixing his pay as per the said Circular No.196/67 from the date he was promoted as Stenographer in the grade of Rs.550-900 in 1979. As the applicant had already retired and his fixation in the grade on the date of his retirement is only notional, he will not be entitled for any arrears in respect of DCRG, commutation, leave encashment etc, as these are one time payments. He

is entitled for arrears, if any, only in respect of the higher fixation of pension on the basis of his notional fixation of pay in the grade of Rs.2000-3200 as indicated above.

7. The applicant was promoted on 7.8.79 and his pay was reduced in terms of the Railway Board's letter dated 30.8.84 with effect from February 1987. He has not challenged the reduction in any forum till he filed this OA on 5.10.94. Even the judgment of the Bombay Bench of this Tribunal was delivered on 22.8.91 and he has taken it has to be held that the bar of limitation will apply in this case. But fixation of pay and drawal of increments on that basis is a continuing process. Hence as per the this Tribunal in a case which is of continuing nature, the arrears that are to be paid due to notional fixation and grant of notional increments is to be given one year prior to the filing of this OA. Accordingly the applicant is entitled for arrears of (this OA was filed on 5.10.94). But as he was not in service on that day, he is eligible to get higher pension as per his last pay drawn on the basis of the notional fixation as indicated above. Hence he is entitled for pensionary arrears from 5.10.93 and no other arrears.

8. In the result, the following direction is given:-

The pay of the applicant in the appropriate stage as Stenographer in the pay scale of Rs.550-900 has to be

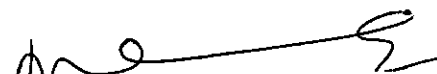


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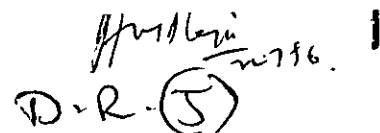
fixed following the Establishment Serial Circular No.196/67 dated 10.8.67 notionally with effect from the date he was promoted to that grade in 1979 and notional increments have to be granted to him thereafter. His pay when he was promoted to the grade of Rs.2000-3200 has to be fixed notionally on the basis of the fixation as directed above. His pension on his retirement in the year 1990 has to be notionally fixed on the basis of his eligible pay on the basis of the notional fixation. The applicant is entitled only for pensionary arrears on that basis from 5.10.1993 ie, one year prior to filing of this ... (which was filed on 5.10.1994). He is not entitled for ^{Arrears} any other pensionary benefits such as DCRG, arrears due to higher fixation of pension.

9. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

Open court dictation.

vsn


D.R. (J)

Contd...

01413/94
TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 16/7/96

ORDER/JUDGEMENT
C.A. NO./R.A./C.P. No.

in

C.A. NO. 1413/94

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

~~ORDERED/REJECTED~~

NO ORDER AS TO COSTS.

YLKR

II COURT

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