

(4)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

Application filed under Section-17 of Central Administrative
Tribunals Act, 1985

Contempt Petition No. 21 of 1997

in

O.A. No. 1414 of 1994

Between:

Sri K. Ramakoteswararao

... Petitioner/
Applicant

K.M. Rao and
Union of India, rep. by its
General Manager, S.C. Railway
and another

... Contemtitors/
Respondents

A F F I D A V I T

I, K. Ramakoteswararao, s/o Sri K. Lakshminarayana,
aged 60 years, Occ: Retd. employee in Railways, r/o Flat No.8,
Amar Apartments, 93, Teachers Colony, East Marredpally,
Secunderabad-26, do hereby solemnly state

as follows:

... herein and Applicant in the above
O.A. and as such am well acquainted with the facts of the
case and the facts deposed hereunder:

3) I submit that aggrieved by the action of the Respondent
authorities in wrongly fixing my Pay, I filed the above O.A.
No. 1414/94 on the file of this Hon'ble Tribunal for issuing
an Order declaring the action of the respondent authorities in
revising ~~the~~ Pay Fixation done in terms
dated 29-7-'67 and fixing my Pay in terms of its letter dated
30-8-'84 is illegal, unlawful, unjust opposed to the Railway
... dated 29-7-'67. opposed to the principles of
natural justice and violative of constitutional rights
guaranteed to me under Article 300 A and fundamental rights
guaranteed under Article-14 & 16 of Constitution of India and
issua a consequential direction to the respondent authorities
to restore me the Pay fixation originally done in terms of

1st page
Corr:

Attn:

M. Ramakoteswararao
Deponent

....2/-

Board's letter dated 29-7-'67 and pay me all the consequential and attendant benefits including the fixation of the amount of salary being drawn by ~~the~~ ~~expedition~~ me regularly at the end of every month.

4) I submit that this Hon'ble Tribunal after perusing my application, annexures placed before it alongwith application, the Counter filed by the Respondent authorities and after hearing my counsel as well as the standing counsel for the respondents, allowed the above O.A. by its Order dated 16-7-'96 with the following direction:

" The Pay of the applicant in the grade of Rs. 550-900 has to be fixed notionally in accordance with the Establishment Serial Circular No. 196/67 dated 10-8-'67 from the date he was promoted to that grade of Rs. 550-900. He should be granted increments notionally thereafter and his Pay in the grade of Rs. 2000-3500 has to be fixed on the basis of the notional Pay fixation in the lower grade at the time of his promotion. The applicant is entitled for arrears of Pay from one year & prior to filing of this O.A. i.e. from 5-10-'93 (this O.A. is filed on 5-10-'94). His Pension and Pensionary benefits have to be fixed on the basis of the last Pay drawn by him in the grade of Rs. 2000-3500. "

A copy of the said Order dated 16-7-'96 is filed herewith for the kind perusal of this Hon'ble Court.

5) I further respectfully submit that the above O.A. was ordered on the basis of the Order dated 16-7-'96 passed in O.A. No. 1413/94 by this Hon'ble Tribunal. A copy of the said Order is filed herewith for the kind perusal of this Hon'ble

2nd page
Corr:

Attn.

M. Mohamed Sadiq
Deponent

....3/-

6. I submit that in view of the above direction I was to be paid at higher Fixation of Pay with effect from 5-10-'93, since my entitlement for the arrears of higher fixation were limited to a period of one year prior to the filing of the above O.A., which was filed on 5-10-'94, and after fixing my Pay at higher fixation, my Pension was to be fixed and paid on the Pay scale at which I was retired from service.

7) I submit that inspite of the above direction dated 16-7-'96 given by this Hon'ble Tribunal, the respondent authorities have not paid nor sent any communication to me about the implementation of the said Order so far. I submit that I visited the Office of the Second Respondent several times and met Senior Personnel Officer and Assistant Personnel Officer and also gave representation dated 19-9-'96 to the Second Respondent which was received in his Office on the same date. I also gave another representation dated 20-10-'96 to the Second Respondent. Thereafter I also sent reminders dated 31-10-'96 and 5-12-'96 through ordinary post. But

~~in spite of my representations and meeting the concerned Senior Personnel Officer and Assistant Personnel Officer several times, so far no communication is sent to me giving any importance stating about the action taken, if any~~

~~I am retired employee of the Respondent Department and the respondents are not implementing the Order with the sole intention to harass me and to drag by dragging the matter. Further the direction in the O.A.~~

~~is not implemented so far. I submit that by not implementing the Order dated 16-7-'96 passed by this Hon'ble Tribunal in the above O.A., both the respondents who are jointly and severally responsible for implementation of the~~
~~3rd page~~

Atta
Atta

Deponent
Deponent

(7)

said Order, have committed wilful and deliberate contempt of Court. They are liable to be punished as per Law. Hence this Contempt Petition.

In the ~~inx~~ circumstances, it is prayed in the interest of justice that the Hon'ble Tribunal may be pleased to punish the respondents as per Law for having committed deliberate and wilful contempt of Court by not implementing the Order dated 16-7-'96 passed by this Hon'ble Tribunal in the above O.A. No. 1413/94, as otherwise I suffer irreparable loss and injury.

In the circumstances, Pending the contempt Petition it is prayed that the Hon'ble Tribunal may be pleased to direct the respondents to implement the Order dated 16-7-96 passed by this Hon'ble Tribunal in the above O.A. No. 1414/94 forthwith by paying me all the arrears of Pay and Pension granted by this Hon'ble Tribunal through its Orders dated 16-7-'96 in the above O.A., as and from 5-10-'93, as otherwise I suffer irreparable loss and injury.

M. Jamali Saini
Deponent

Sworn and signed by the
deponent before me on this
the 17th day of February '97
at Hyderabad

M. Jamali Saini
Identified by Sri P.N.A. Christian, Advocate

M. Jamali Saini
Advocate

56
12

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,
2. The Chief Personnel Officer,
S.C.Railway,
Secunderabad. .. Respondents

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

COUNSEL FOR THE RESPONDENTS: SHRI V.RAJESWARAO, Addl.CGSC

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 OA was promoted from the grade of Rs.425-700 to Rs.550-900 directly with effect from 1.8.79. The Railway Board issued 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



(15)

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).

a number of representations to refix 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 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 judgment in OA 470/88 (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 in this case. But the judgement in OA 470/88 on the file of the Bombay Bench of this Tribunal had already quashed advised in 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 dated 22.8.91 in OA 470/88 and hence in

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 consideration for stepping of pay cannot be satisfied in these cases".

As per the above clarification, persons who were promoted from the 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 others challenged the circular by filing O.A.No.470/88 on the file of Bombay Bench of this Tribunal. That OA 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

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 22.10.93. 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 Civil Appeal in the case of ~~.....~~ on 22.8.91 and he has taken three years thereafter to file this OA. Hence 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 principle laid down by 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 higher fixation, if any, from 5.10.93 (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 observed above. Hence he is entitled for pensionary arrears from 5.10.93 to 5.10.94.

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

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



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 accordance with the Establishment Serial Circular No.196/67 dated 10.8.67.

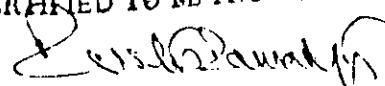
..... the applicant has
Confidential Assistant in the grade of Rs.2000-3200 (RSRP). Hence his pension has to be fixed taking into account his notional pay at the time of his retirement notionally fixing his pay as per the said Circular No.196/67 from the date he was promoted as Stenographer in the grade 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



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 OA (this OA was filed on 5.10.1994). He is not entitled ~~arrears~~ commutation, leave encashment etc, except pensionary arrears due to higher fixation of pension.

9. The OA is ordered accordingly. No costs.

CERTIFIED TO BE TRUE



प्रायोगिक विधिकारी

COURT OFFICER

केन्द्रीय प्रशासनिक विधिकराम

Central Administrative Tribunal

हैदराबाद वायराट

Concluded