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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD
O.A.NO.134 of 1995.

Between

Dated: 10.11.1995.

P.S.Rao

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Applicant

And

Union of India represented

1. General Manager, S.E.Railway, Garden Reach, Calcutta.
2. Chief Signal and Telecommunications Engineer(Construction), S.E.Railway, Garden Reach, Calcutta.
3. District Signal & Telecommunication Engineer(Development),
4. Divisional Railway Manager, S.E.Railway, Visakhapatnam.
5. Senior Divisional Accounts Officer, S.E.Railway, Visakhapatnam.

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Respondents

Counsel for the Applicant : Sri. Y.Subrahmanyam

Counsel for the Respondents : Sri. D.Francis Paul, SC for Rly

CORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

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O.A.No.134/95Date of Order: 10.11.95

I AS per Hon'ble Shri A.B.Gorthi, Member (Admn.) I

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The applicant was appointed as Assistant Block Signal Inspector at Kharagpur, S.C.Railway from 26.6.66. While in service he qualified in Parts I and II A.M.I.E. from the Institution of Engineers (India) in Electrical Engineering in 1977. As per the extant instructions his claim for cash reward of Rs.200/- for passing Part I and for grant of 2 advance increments for passing Part II was duly sanctioned w.e.f. 1.11.77. Later on, the applicant qualified in B.Tech., in Electronics and Communication Engineering. His claim for grant of 2 advance increments was initially allowed w.e.f. 1.7.86 but was later on withdrawn on the ground that such incentive could be given only once. As the applicant had already claimed the benefit of the incentive in 1977 the respondents concluded that he would not be eligible for grant of further increments on his acquiring B.Tech., degree in 1986. Aggrieved by the same he has come up with this OA praying that he be given advance increments in terms of Railway Board's letter dated 14.2.90 under which employees acquiring B.E./B.Tech., Degree would be entitled to claim six advance increments. It is further prayed in the OA ^{that} with the recoveries effected should be declared null and void and the amounts due to him be paid with interest. It is stated in the OA that the respondents effected the recovery of the alleged excess payment made to him from the D.C.R.G. due to him on his retirement on 31.3.94.

2. Heard learned counsel for both the parties.

3. Mr.Y.Subrahmanyam, learned counsel for the applicant stated that as far as the incentives granted to the applicant in 1977, they were given in accordance with the extant instructions. The main issue agitated by the applicant's counsel is that on the applicant acquiring the degree of B.Tech., in 1986 he would become eligible to claim advance increment not only as per the then existing instructions under which he would be eligible for 2 additional increments but also under the Railway Board's letter dated 14.2.90 under which the applicant could be entitled to six advance increments.

4. In 1966 the Railways introduced a scheme for granting incentives to Class III railway employees for acquiring higher or additional Scientific/Technical/Accounts qualifications. Under the said scheme on passing the relevant examinations the employee would be entitled to a cash award to Rs.200/- for Part-I and 2 advance increments for qualifying in Part-II. The letter further stipulates that incentives are to be granted only once and not twice over. The said scheme remained operative till 30.6.88. Thereafter the scheme was modified vide Railway Board's letter dated 29.5.89 allowing 2 advance increments for passing Part I and 4 advance increments for passing Part II of the relevant examinations. On the question whether the said Railway Board's letter would be operative retrospectively or with prospective effect, the Tribunal in the past held that the revised scheme would be deemed to come into effect ~~effective~~ w.e.f. 1.7.88 as the earlier scheme for grant of advance increments remained operative till 30.6.88.

5. In the instant case the applicant obtained the degree of B.Tech., in July 1986. He cannot therefore claim the benefit of the new scheme introduced in the year 1989. Moreover the Railway Board's letter dated 29.5.89 itself states that the revised incentives were introduced "pursuant to the recommendations of the 4th Pay Commission".

6. Another important ^{factor} ~~aspect~~ on which the respondents ~~has~~ strongly relied in rejecting the claim of the applicant for further incentive is that the applicant having qualified in A.M.I.E. and having been granted the incentive in 1977 cannot claim ~~another~~ further advantage or benefit on his passing B.Tech., degree, which in any case cannot be said to be a higher qualification ^{than} ~~them~~ A.M.I.E. No-where in the scheme it is stated that an employee who is ^{granted} ~~is~~ incentive for acquiring a higher qualification can claim further benefit by acquiring similar or same level ^{qualification} ~~examinations~~ in other disciplines.

7. In view of what is stated above the claim of the applicant for further advance increments in terms of railway board's letter dated 29.5.89 ^{read} ~~with~~ 14.2.90 cannot be accepted.

8. Mr.T.Subrahmanyam, learned counsel for the applicant drew my attention to the fact that the respondents having granted 2 advance increments to the applicant w.e.f. 11.11.77 in terms of the then existing scheme for grant of incentives, absorbed the said 2 increments against the applicant's annual increments that became due in the following years namely 1978 and 1979. He argued that if that were to be the correct position, the scheme

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of advance increments would provide ~~for~~ hardly any incentive for the acquisition of the higher qualification. Moreover Clause ^(h) of the Railway Board's letter dated 14.5.66 providing for the incentives lays down as under:-

- ✓ (H) The grant of advance increments ^{cannot} of course be extended to such staff who have already reached ~~the~~ maximum of the scale on or before the date of passing the examination and are subsequently promoted to a higher grade or post.

9. Learned standing counsel for the respondents contends that in view of the ~~new~~ ^(h) clause of the railway board's afore-mentioned letter the advance increments granted to employee would have to be adjusted ^{against} the annual increments falling due.

10. The contention of the respondents cannot be accepted. clause ^(h) implies that the benefit of the advance increments will stop once the employee reaches the maximum of scale of pay. In the instant case when the applicant was granted the benefit of 2 advance increments he was drawing pay of Rs.560/- in the scale of pay of Rs.425-700. He would thus be entitled to the benefit of the 2 advance increments till he reach ^{ed} the maximum of Rs.700/- in the scale of pay of Rs.425-700. In this regard I find from the office order dated 16.7.92 issued by the DSTE (Dev) Khurda that the respondents themselves initially fixed the pay of the applicant by correctly granting him the advance increments and taking his pay upto Rs.700/-, which he reached on 1.6.82. It was later, on the strength of the afore-said office order dated 16-7-92, that the respondents revised and refixed the pay of the applicant by adjusting the 2 advance increments against the annual increments that became due to the applicant on 1.6.78 and 1.6.79. For this, neither any plausible explanation was given by the respondents nor any

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authority has been shown to justify such absorption of advance increments. Apart from the fact that the action of the respondents seems to be without legal sanction, I find that it does not seem to be either just or fair, it would infact render the scheme of advance increments nugatory.

11. In the result, that part of the office order dated 16.7.92 issued by D.S.T.E. (Dev) Khurda by which the pay of the applicant was brought down ^{for the period} from 1.6.78 to 1.6.83 is hereby set aside. The respondents are directed to adhere to the pay as originally fixed for the period ^{from} 1.6.78 to 1.6.83 and pay of the consequential arrears to the applicant. As it is stated that consequent to the revision, by means of the impugned order, recoveries were made from the DCRG of the applicant, the amount recovered towards revised pay fixation for the period 1.6.78 to 1.6.83 shall be refunded to the applicant, ^h Together with interest at the rate of 12% p.a. to be calculated from the date the recovery was made from the DCRG of the applicant to the date the refund is made in pursuance of this order.

12. The OA is ordered accordingly. No costs.

CERTIFIED TO BE TRUE COPY
[Signature]
Date..... 29/11/98
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

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Copy to:-

1. General Manager, S.E.Railway, Union of India, Garden Reach, Calcutta-43.
2. Chief Signal and Telecommunication Engineer (Construction), S.E.Railway, Garden Reach, Calcutta-43.
3. District Signal and Telecommunication Engineer (Development), S.E.Railway, Khurda road,
4. Divisional Railway Manager, S.E.Railway, Visakhapatnam.
5. Senior Divisional Accounts Officer, S.E.Railway, Visakhapatnam.
6. One copy to Sri. Y.Subrahmanyam, advocate, D.No.45-58-7, Narasimhanagar, BPO Saligrampuram, Visakhapatnam-24.
7. One copy to Sri. D.Francis Paul, SC for Railway, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

RSM/-

ATTESTED
[Signature]
Y. SUBRAHMANYAM
ADVOCATE