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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1736/97

Date of Order : 23.3.98

BETWEEN:

Bande Ali .. Applicant.

AND

1. The Divisional Railway Manager,
Hyderabad Division,
S.C.Rly., Secunderabad.

2. The Sr.Divisional Personnel
Officer, Hyderabad Division,
S.C.Rly., Secunderabad.

3. The Sr.Divisional Accounts
Officer, Hyderabad Division,
S.C.Rly., Secunderabad.

.. Respondents.

Counsel for the Applicant .. Mr. S. Lakshma Reddy

Counsel for the Respondents .. Mr. V. Bhimanna

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMIN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

O R D E R

X AS per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr. S. Lakshma Reddy, learned counsel for the applicant and Mr. V. Bhimanna, learned standing counsel for the respondents.

2. The applicant in this OA while working as second fireman from 14.1.80 under the respondent organisation underwent a medical check up in the year 1983. He was found unfit for

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A-1 category and fit for C-1 medical category. It is stated that his eye was injured while on duty caused due to the line clear stick. But he did not think it such a grade as to cause unfitness to running category. He did not take any medical treatment also. On medical decategorisation, he was given absorption in the alternative post of Watchman in the grade of Rs.196-232 and posted to PWI, Medchal in the year 1984. He took voluntary retirement for some personal reasons and it was accepted on 31.8.86. The respondents fixed the pension at Rs.292/- after giving commutation for Rs.97/- out of the pension of Rs.375/- by proceedings dated 1.12.86. The applicant has made representation to the respondents that the pension fixed at Rs.375/- and after commutation at Rs.292/- is totally injustice to him as the same was not fixed in the revised scale and further 30% in lieu of the running allowance was not added to his pension after medical decategorisation as per para 1313 of I.R.E.M.

3. The applicant relying on the judgement of this Tribunal in OAs 310/95, 1360/95 and 522/95 submits that his pension should be fixed taking into account 30% of the running allowance as was decided in the above referred OAs.

4. This OA is filed praying for a declaration that the action of the respondents in not fixing the pay of the applicant by adding 30% of the basic pay in lieu of the running allowance, while fixing his pay on ^{his posting of} medical decategorisation and absorption into a lower grade post of Watchman and consequential wrong fixation of his pension and other retirement benefits by treating those fixation as illegal and for a consequential direction to the respondents to refix the pay and pension of the applicant in terms of Para-1313 of IREM such as arrears of pay etc.

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this OA are similar to that of the prayer - and the contentions in O.A.No.310/95. For the reasons stated in the orders in the above referred OA, the present OA is also to be allowed.

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

R-1 and R-2 should fix the pay of the applicant herein when he was absorbed as Commercial Courier strictly following Para 1313(2)(b) of IREM without making any differentiation between Group I and II as indicated in the Railway Board's letter No.E(NG)I-86-RE3/3 dated 9.4.86 (RBE No.76/86). However, the applicant is entitled for arrears in this connection only from one year prior to filing of this OA i.e, from 13.7.94 (this OA was filed on 13.7.95).

6. Time for compliance is four months from the date of receipt of a copy of this order.

7. The OA is ordered accordingly. No costs.

प्रसाधित प्रति
CERTIFIED TO BE TRUE COPY

M.R.B.C
19-7-86

कायालय अधिकारी
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Court of Administrative Tribunal
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Court of Administrative Tribunal

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5. A reply has been filed in this OA. The reply statement is more or less on the same lines as the reply given in OA. 310/95. All these contentions have been examined vividly in OA. 310/95 and come to the conclusion that a running staff medically declassified, his fixation of pay in the alternate category should be fixed taking into account 30% of running allowance for reasons stated in OA. 310/95. This OA is also for the same relief as the applicant was absorbed as Watchman in the scale of pay of Rs. 196-232 without fixing his pay in the alternate post taking 30% of the running allowance as he was medically declassified from the post of Fireman, a running category.

6. In view of the above we follow the judgement given in the OA referred to above and direct as follows :-

R-1 and R-2 should fix the pay of the applicant herein when he was absorbed as Watchman strictly following para 1313 (2) (b) of IREM without making any differentiation between Group-I and II as indicated in the Railway Board's letter No. E (NG) I-86-RE3/3 dated 9.4.86 (RBE No. 76/86). However, the applicant is entitled for arrears ^{if any} in this connection only from one year prior to filing of this OA i.e. from 23.12.96 (this OA was filed on 23.12.97).

7. Time for compliance is four months from the date of receipt of a copy of this order.

8. The OA is ordered accordingly. No costs.

(B.S. JAI PARAMESHWAR)

Member (Judl.)

23. 3. 98

(R. RANGARAJAN)
Member (Admn.)

Dated : 23rd March, 1998

Dictated in OpenCourt)

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