

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.602/93

Dt. of order: 7-9-1984

Bhanwar Lal Jain

: Applicant

Vs.

Union of India & Anr.

: Respondents

Mr.R.N.Mathur

: Counsel for applicant

Mr.M.Rafiq

: Counsel for respondents

CORAM:

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant Bhanwar Lal Jain has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, wherein he has claimed the following reliefs:

- i) The respondents may be directed to treat the applicant as a substantive appointee on the post of Traffic Inspector from the date he was appointed on the aforesaid post namely 31.3.1985, and that he may be given benefit of further promotions in the cadre of Traffic Inspector.
- ii) The respondents may be directed to compute the pensionary benefits of the applicant on the basis of the pay scale ₹.2375-3500(RP) in the cadre of Traffic Inspector.
- iii) The respondents may be directed to grant actual pay of the higher grades in the cadre of Traffic Inspector to the applicant with all due arrears.
- iv) The respondents may be directed to issue a declaration that the applicant has qualified the selection test for the post of Traffic Inspector in the year 1986 and for that purpose selection test conducted in the year 1985 may be taken into consideration.
- v) A declaration may be made that the cancellation of the panel of the selected candidates for the post of Traffic Inspector made by the respondents was illegal and that the applicant is entitled to promotion on the post of Traffic Inspector in pursuance of the selection test held in 1985.
- vi) The respondents may be directed to grant promotion to the applicant in the cadre of Station Master as the applicant qualified the suitability and selection test in the aforesaid cadre. They

may be further directed to grant actual benefits of the pay of the post of Station Master and the post of Station Superintendent in various pay scales. He may also be granted pensionary benefits on the basis of the higher pay scales of Station Superintendent in scale Rs.2000-3200(PP) or in the higher scale to which he may be entitled.

2. Notice regarding admission was issued to the respondents and they have filed the reply. The learned counsel for the respondents was also present. It was, therefore, decided to dispose of this case at the admission stage, on merit, after hearing the counsel for both the parties.

3. Earlier the applicant had filed an O.A. No.360/92 which was disposed of by this Bench of the Tribunal vide order dated 13.5.93 (Annex.A4). While disposing of the said application the Tribunal had noted that an order had earlier been issued on 19.2.87 that status quo shall be maintained with regard to the holding of the post of Traffic Inspector by the applicant. The order was later modified to provide that the respondents should keep one post of Traffic Inspector vacant to adjust the applicant against the said post if he succeeds. During the hearing of the said O.A. it was submitted by the then learned counsel for the applicant that the applicant continued to work against the said vacant post of Traffic Inspector and that he had not been reverted. He further stated that the applicant was retiring from service on 31.5.93. On the basis of this statement made by the then learned counsel for the applicant, the Tribunal directed in its order dated 13.5.93 that the applicant shall continue to hold this post upto the date of his retirement if he had not already been reverted and that he shall be entitled to pensionary benefits according to rules.

4. In the background of the above position, it is to be noted, as stated by the applicant in the present application that he continued to hold the post of Traffic Inspector upto 31.5.93 and he retired from the said post. The respondents have also stated that they have given pensionary benefits to the applicant on the basis of the pay of the said post held by the applicant till the

date of his retirement i.e. on 31.5.93.

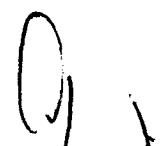
5. Now we come to the merits of the present application. In the first instance it is seen that there is a misjoinder of causes. Reliefs have been sought for being treated as substantive appointee to the post of Traffic Inspector, for promotion to various higher grades in the cadre of Traffic Inspector, grant of pensionary benefits in scale Rs.2375-3500 which scale the applicant never held for promotion to the posts of Station Master and Station Superintendent, etc. Nevertheless we have considered the application and the various prayers contained therein on merits.

6. The applicant's case is that he should be treated as a substantive appointee to the post of Traffic Inspector, having been appointed to the said post in the year 1985, in scale Rs.455-700 which was later revised to Rs.1400-2300. The respondents' case is that all through out this post was held by the applicant on ad hoc basis and he was not eligible for a regular selection/appointment as he had crossed the age of 50 years. However, he was allowed to continue to hold the said post till his retirement in view of the orders passed by this Tribunal. The applicant has sought promotion to the higher posts/scales of Traffic Inspector, Station Master and Station Superintendent. According to the respondents the applicant was continued on the post of Traffic Inspector because of the order of the Tribunal that status quo shall be maintained. If the applicant was interested in holding posts other than that of the Traffic Inspector he should have made request to this effect to the respondents but he did not do so. Therefore, according to the respondents the other reliefs sought by the applicant are not liable to be granted to him.

7. The applicant appeared for selection for posts of Station Master/Station Superintendent, but he was never actually appointed to these higher posts. Till his retirement he held the post of Traffic Inspector scale Rs.1400-2300. Unless he is selected for a higher post and actually appointed to it and draws the pay scale of that post, he would not be entitled to pensionary benefits of

the higher scale attaching to a particular post. Since the applicant has already retired from service he cannot now be considered for appointment to any higher post. Therefore, the benefit of any higher post or the scale attaching to that post cannot be granted to him at this stage. In fact during the hearing of the O.A. No. 360/92 which was disposed of on 13.5.93 the applicant's counsel had only desired that the applicant may be allowed to continue on the post of Traffic Inspector till his retirement so that he is entitled to pensionary benefits of the scale of pay which he was drawing at that time. In view of this submission made by the learned counsel for the applicant the Tribunal had passed the specific order that the applicant shall be allowed to continue on the post of Traffic Inspector till the date of his retirement. By implication no other relief was asked for at that time. Now at this stage the matter regarding promotions to higher scales, etc. which was not pressed or which was given up at the time of hearing of the earlier O.A. cannot be agitated afresh.

8. In the facts and circumstances of the present case, since the applicant has been allowed pensionary benefits on the basis of the scale of pay Rs.1400-2300 attaching to the post of Traffic Inspector held by him on ad hoc basis till the date of his retirement, no other relief is admissible to the applicant. The O.A. is therefore, dismissed at the stage of admission with no order as to costs.


(O.P.Sharma)
Member(A).


(D.L.Mehta)
Vice Chairman.