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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIFUR BENCH: JAIFUR.

O.A.NO.95/1993

Date of order: 11.1.97.

Rajendra Kumar Arora S/o Shri Devi Das, R/o 182/34, Pal Bichale Ajmer, Rajasthan.

: Applicant
Versus

1. The Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager (D.R.M.) Western Railway, Jaipur.

: Respondents.

None present for the applicant
Mr. M. Rafiq, counsel for the respondents.

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O-R-D-E-R-

(PER-HON'BLE-SHRI-O.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunals Act, 1985 Shri R.K. Arora has prayed that the respondents may be directed to grant stepping up of pay to the applicant and fix his pay at par with his junior Shri K.K. Mittal w.e.f. the date when the anomaly in pay started and that the action and the attitude of the respondents in not granting stepping up of pay to the applicant may be declared to be illegal, unjust and discriminatory.

2. The factual position presented by the applicant in the OA is that he was appointed as Fireman Grade 'A' (Apprentice) on 24.7.1965 and one Shri K.K. Mittal was appointed on the same post on 6.2.1967. The applicant is senior to Shri K.K. Mittal all throughout as per details given in the OA. In 1988 the applicant came to know that an "officiating roll" was being prepared. The applicant made a representation on 7.6.1988 requesting respondent No.2, the

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Divisional Railway Manager, Western Railway, Jaipur to fix the applicant's pay in the light of the pay fixation done in the case of Shri K.K. Mittal who is junior to him. However, pay of the applicant was fixed by order dated 9.6.1988 (Annex.A/1) without taking into account the pay fixation done in the case of Shri K.K. Mittal. The applicant made several representations to the respondents with regard to his grievance. The respondent No.2 informed the applicant vide letter dated 3.11.1988 (Annex.A/2) that fixation of pay of Shri Mittal had been wrongly done as on 1.1.1986 and that this would be corrected. The applicant was also informed that there would however no question of stepping up of pay of the applicant after revision in the case of Shri K.K. Mittal. Subsequently however, no action was taken by the respondents in this regard. The applicant also approached the Labour Enforcement Officer with regard to his grievance. However, there has been no satisfactory outcome of his efforts in this regard even after the conciliation proceedings were held.

3. The respondents in their reply have taken an objection to the OA as being barred by limitation. They have added that correct fixation of pay in the case of Shri K.K. Mittal is proposed to be done in accordance with the provisions contained in their circular/letter dated 9.6.1986 (Annex.R/5). The applicant is, however, not entitled to any stepping up of pay, in accordance with the rules.

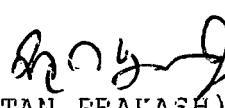
4. Subsequently after the applicant filed a rejoinder to the reply filed by the respondents, the respondents have filed an additional affidavit in August, 1997 stating that the pay fixation in the case of Shri K.K. Mittal has been corrected by passing an order dated 1.4.1997 in this regard which has been annexed to the additional affidavit and orders

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have been issued for recovery of the excess amount paid to Shri Mittal. Since the claim of the applicant is based solely on the cause of action arising on account of the fixation of pay in the case of Shri K.K. Mittal, the application of the applicant has been rendered infructuous. Recovery of the excess amount stated to have been drawn by Shri K.K. Mittal is also being made as per the order annexed to the additional affidavit.

5. None is present on behalf of the applicant. We have heard the learned counsel for the respondents and have perused the material on record.

6. It is apparent that the claim for stepping up of pay of the applicant is based solely on the ground that higher pay has been granted to Shri K.K. Mittal although Shri Mittal was junior to the applicant at all stages as per the averments in the OA. The basis of the applicant's claim or grievance has now disappeared for the reason that re-fixation of pay has been done in the case of Shri K.K. Mittal also and the excess amount paid to Shri Mittal has been ordered to be recovered from his pay. In this circumstances, there is no justification for the claim of the applicant that his pay should be stepped up at par with Shri K.K. Mittal. The O.A. is, therefore, dismissed. No order as to costs.


(RATAN PRAKASH)

JUDICIAL MEMBER


(O.P.SHARMA)

ADMINISTRATIVE MEMBER