

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 28/3/2012

OA 2/98

Narain Hari, Black Smith Gr.III under Sr.Section Engineer
P/Way (South), Kota, W/Rly.

.. Applicant

Versus

1. Union of India through General Manager, W/Rly,
Churchgate, Mumbai.
2. Divisional Railway Manager, W/Rly, Kota Division,
Kota.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant

... Mr.C.B.Sharma

For the Respondents

... Mr.Anupam Agarwal, proxy
for Mr.Manish Bhandari

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

The applicant was initially appointed as a casual Black Smith in Survey & Construction Organisation on 27.9.77 in Kota Division of Western Railway. He was granted temporary status w.e.f. 1.1.82 vide letter dated 28.1.87 and was placed in Grade-III pay scale. He was further promoted to Grade-II scale Rs.1200-1800 vide order dated 22.9.89. He was ordered to be absorbed in Group-D post vide letter dated 30.10.91 while he was holding the



post of Black Smith Grade-II in the Construction Organisation. Vide order dated 26.5.97 he was posted as Black Smith in grade Rs.950-1500 on regular basis under PWI (South). The applicant is aggrieved with this order for the reason that at the time he has been posted in Grade-III scale Rs.950-1500, he was already working in the pay scale of Rs.1200-1800 in the Construction Organisation. He has filed this OA with the prayer that respondents be directed to regularise him on the post of Black Smith Grade-II in the scale of Rs.1200-1800 in terms of Para-2007 of IREM Vol.II read along with para-159 of IREM Vol.I and allow all consequential benefits. In the alternative, his prayer is that on his posting as Black Smith Grade-III his pay, which he was last drawing while working as Black Smith Grade-II, may be protected.

2. Heard the learned counsel for the parties and perused the records including reply of the respondents.

3. Admittedly, at the time the impugned order was issued, the applicant was holding an ex-cadre post in the Construction Organisation. His absorption in Group-D vide order dated 30.10.91 is also not in dispute. During arguments, the learned counsel only pressed the point of protecting the pay of the applicant on his regular appointment in Grade-III. He placed reliance on the judgement of the Full Bench, sitting at Jaipur, in the case of Aslam Khan v. UOI, 2001 (2) ATJ 1. Both the alternative



reliefs sought by the applicant have no merits. Promotion to Grade-II is on the basis of seniority in the cadre. It is not the case of the applicant that any of his junior has stolen a march over him. His first prayer of regularising him in Grade-II has no force at all. Para-2007 of IREM Vol.II is not relevant for this purpose as that deals with regularisation of Group-C casual labours in Group-D. The applicant was already holding a post in Group-D on regular basis when he was promoted to Grade-III by the impugned order. The above stated provision of IREM is not relevant for this purpose. In respect of pay protection, the case of Aslam Khan is of no help to the applicant as that ~~action~~ again was a case dealing with regularisation of Group-C casual labour. Pay protection was afforded to such Group-C casual labour on their regular absorption in Group-D. In the instant case, the applicant was already in Group-D on regular basis and at the time of issue of the impugned order he was only holding a post in Grade-II against ~~an ex-cadre~~ an ex-cadre post. By the impugned order he was reverted to the cadre. In such a case, the pay fixation is governed by FR-22. By OM No.7(75)-E.III (A/71) dated 3.4.72 it has specifically been decided as under :

"A question has been raised whether the benefit of fixation of pay in a cadre post with reference to pay drawn in an ex-cadre post under F.R.22-C still continues to be available. It is clarified that after the amendment of F.R.22 as referred to above, the orders have become obsolete and it is not permissible to fix pay in a cadre post on the basis of pay in an ex-cadre post."

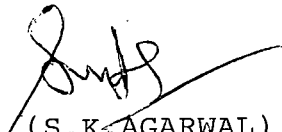


In view of such clear statutory rules there is absolutely no merit in this OA and the same is liable to be dismissed.

4. We, therefore, dismiss this OA. No costs.


(A.P.NAGRATH)

MEMBER (A)


(S.K.AGARWAL)

MEMBER (J)