

(97) (92) (10)  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

O.A.No.245/89

Dt. of order: 24.2.1994 (5)

Roshan Lal

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.J.K.Kaushik : Counsel for applicant

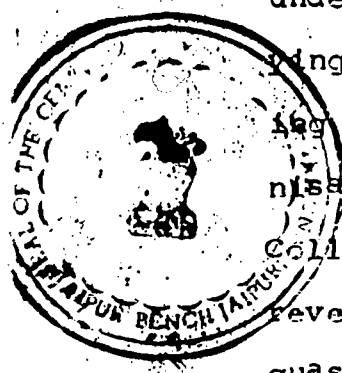
Mr.S.S.Hasan : Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

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

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



Applicant Roshan Lal has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that the respondents may be restrained from transferring the applicant on reversion from Production Control Organisation (PCO) to Shop Floor and from the post of Material Collector Gr.I to Painter Gr.I and if any transfer-cum-reversion order has been passed to this effect it may be quashed with consequential benefits. His further prayer is that the respondents may be directed to make payment of special pay to the applicant in accordance with the rules laid down by the Railway Board vide letter dated 9.6.78 (Annx.A-8) <sup>CP 6/C</sup> calculated at the rates laid down from time to time alongwith interest at reasonable rate. Still further prayer of the applicant is that the respondents may be directed to allow the applicant to exercise fresh option in case he is deemed to be permanently absorbed in PCO.

2. The applicant was appointed as Khallas in Kota Workshop on 2.5.63. He was promoted as Skilled Painter in 1971. He was transferred to the PCO vide order dated 25.11.74, in response to a notification calling for applications for filling-up the post of Material Collector scale Rs.260-400(RP). Thereafter, he continued to work in the PCO and got promotions from time to time there till he reached the position of Material Collector Gr.I scale Rs.1320-1040, th pay of Rs.1560.

3. Vide order Annx.A-12 dated 25.3.89, the applicant was transferred back to the Shop Floor as Painter Gr.I in the scale of Rs.1320-2040/-. The scale of pay of the post from which he was transferred from the PCO and that of the post to which he was transferred at Shop Floor were the same. However, on transfer to the Shop Floor his pay was fixed at Rs.1410 i.e. Rs.150 less than that being drawn by him as Material Collector Gr.I. The applicant's case is that he had been permanently absorbed in the PCO and therefore, the order of reversion to the Shop Floor and reduction in his pay were illegal. His other grievance is that while he was working in the PCO he has not been paid special pay in accordance with the provisions of the Railway Board's letter dated 9.6.78 (Annx.A-8). P6c

4. During the arguments the learned counsel for the applicant stated that he does not press the ground regarding the applicant's transfer from PCO to the Shop Floor. His claim is now confined firstly to protection of his pay which was drawn by him earlier when he was working in the PCO and secondly, grant of special pay to which the applicant was eligible in view of Annx.A-8.

5. The respondents in their reply have stated that the applicant was drawing pay of Rs.1560 in the scale Rs.1320-2040/- because had he had got early promotions in the ex-cadre post in the PCO. They have added that in view of P53 Annx.B-1, the applicant is not entitled to any special pay or incentive bonus.

6. We have heard the learned counsel for the parties and have gone through the records.

7. Now two claims of the applicant survive for consideration. One is protection of his pay on transfer back to Shop Floor. The applicant was drawing Rs.1560/- before his transfer to Shop Floor vide order Annx.A-12 dated 25.3.89. This higher pay has been earned by him in the PCO on account of his special pay promotion there. Evidently, therefore,

(95) : 3 : (90) (7) (15) (12)

he is entitled to protection of this pay. We direct that the respondents shall protect the applicant's pay at Rs.1560/- by treating the difference between Rs.1560 and Rs.1410 as his personal pay to be absorbed in future increments.

8. The second issue to be decided now is regarding the special pay claimed during working in the PCO. Item (iii) 3 of Annx.A-8 dated 7.7.78 provides that staff from the Shop Floor ~~are~~ <sup>CAC</sup> posted to the PCO in their existing scale of pay they will receive a special pay of 10% of the pay admissible to them in their posts in the Shop Floor. Annx.R-1 has been cited by the learned counsel for the respondents to argue that no such special pay is admissible to the applicant. Annx.R-1 is supposed to be a clarification of Item (iii) of Annx.A-8. A plain reading of Annx.R-1 shows that it is self contradictory. At one place it suggests that 10% special pay would be admissible to the officials transferred from Shop Floor to PCO and at other places it suggests that it is not admissible. We are unable to make a head and tail of the true meaning of this circular. In the circumstances we have no option but to rely upon item No. (iii) of Annx.A-8 dated 7.7.78. We accordingly direct that the respondents shall grant special pay as admissible to the applicant in terms of item 3 of Annx.A-8. <sup>CAC</sup> ~~CPC~~

9. The respondents are directed to take necessary action in terms of the above directions within a period of 4 months from the date of the receipt of a copy of this order. The O.A. is disposed of accordingly with no order as to costs.

SD

(U.P. Sharma)  
Member (A).

87

(Gopal Krishna)  
Member (J).

TRUE - COPY

*Ankur 11-2-14*  
Section Officer (Judicial)

Central Administrative Tribunal

JALPAIGURI, WEST BENGAL