

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

1.6.2001

Date of Order : 1.6.2001

O.A.NO. 71/1995 & M.A.123/95 (OA 71/95)

S.R.Chowrasia S/o Late Shri R.D.Chowrasia, retired Senior Accounts Officer, Rail Coach Factory, Kapurthala, R/o 29 Chaurasia Sadan, Balupra Road, Adarshnagar, Ajmer.

.....Applicant..

VERSUS

1. Union of India through General Manager, Rail Coach Factory, Kapurthala, Hussainpur (Punjab), PIN 144 602.

2. Financial Adviser and Chief Accounts Officer, Rail Coach Factory, Kapurthala, Hussainpur (Punjab) PIN 144 602.

.....Respondents.

.....
Mr. W.Wales proxy for Mr. D.P.Garg, counsel for the applicant.
None is present for the respondents.

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CORAM :

HON'BLE MR.JUSTICE E.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH,ADMINISTRATIVE MEMBER

.....
PER MR.GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, applicant, S.R.Chowrasia, has prayed for declaration that the applicant being similarly circumstanced, is entitled to the benefit of fixation of pay on his promotion to Senior Accounts Officer (Class I Scale Rs. 3000-4500), as per the judgement and orders of the Central Administrative Tribunal, Allahabad Bench, in O.A. No. 1071 of 1989, at Annex.A/3, and allow payment of all the consequential arrears of pay and allowances to him up to 30.4.1990 and also payment of enhanced retiral dues including the DCPG, Pension etc.

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and arrears of Pension from 1.5.1990 till date. The applicant has also prayed for interest at the rate of 13% p.a. on all the arrears.

2. The Allahabad Bench of the Central Administrative Tribunal, in O.A. No. 1072/1989, decided on 19.11.1992, dealt with the case of a Assistant Engineer who was promoted to Class II (Group B) post, who was further transferred to the Railway Electrification, Allahabad on 18.11.1985 on deputation and on 18.4.1986 he was promoted to senior scale on ad hoc basis and was allowed to get charge allowance of Rs. 150/- per month besides the pay of Group B post. As a result of IV Pay Commission award his salary was fixed in the substantive pay scale of Rs. 2000-3500. The applicant retired on 31.12.1987 and his retiral benefits were calculated at the rate of Rs. 3300/- which he last drawn on the Group 'B' post. The applicant therein, had claimed that his pay should have been fixed according to the pay scale of Rs. 3000-4500 which is admissible to Group-I Senior Scale post as he retired while working on that post. The said O.A. was allowed with the following directions :-

"9. Thus in view of the discussions made above the application is allowed and the applicant is granted relief as under :-

(i) Respondents No. 1 and 2 are directed to fix the salary of the applicant in regular senior scale of Rs. 3000-4500 w.e.f. 18.4.86 (fixing his pay first in Group B scale of Rs. 2000-3500 then in Group A Junior Scale of pay of Rs. 2200-4000 and then in Group 'A' Senior scale of pay of Rs. 3000-4500),

(2) Respondents No. 1 and 2 are directed to pay the applicant all the arrears due from 18.4.1986 till 31.12.1987.

(3) Respondents No. 3 & 5 are directed to fix the pension of the applicant and all consequential benefits on the basis of revised pay and to pay the applicant all arrears within a period of 4 months from the date of communication of this order."

Ch. 18/8/8

3. The applicant before us also contends that he is similarly circumstanced person and should be extended the same benefits.

4. The applicant in this case, was holding the post of Accounts Officer Class II in the Railway Board in the pay scale of Rs. 2375-3500 and was transferred to Railway Coach Factory, Kapurthala Headquartered at New Delhi on 11.7.1988. The applicant was promoted to the post of Senior Accounts Officer Scale Rs. 3000-4500 w.e.f. 26.7.1988. He was accordingly given fixation of pay in the pay scale of Rs. 3000-4500. When the applicant came to know of the judgement dated 19.11.1992 of Allahabad Bench of the Central Administrative Tribunal, he made a representation on 14.7.1994 (Annex.A/1) but to no avail. Hence, this application.

5. In the Counter, the respondents have denied the contentions of the applicant. To begin with, the respondents have pointed out that the application is hit by limitation. The grievance arose to the applicant prior to the year 1990 and he first made the representation on 14.7.1994 (Annex.A/1), much after the limitation period was over. Thus, the O.A. is barred by limitation and can be dismissed on that count alone over the respondents.

6. It is also pointed out by the respondents that the post of Senior Accounts Officer in the pay scale of Rs. 3000-4500 is not a Group 'A' post and as such, the applicant cannot claim fixation benefits in terms of the judgement of the Allahabad Bench of this Tribunal. It has, therefore, been averred by the respondents that the application is devoid of any merit and is liable to be dismissed.

7. We have heard the learned counsel for applicant and have carefully

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gone through the records of the case.

8. In our opinion, the present application is squarely covered by the order dated 19.11.92 (Ann.A/3) passed in CA 1072/89 by the Allahabad Bench of the Central Administrative Tribunal and, therefore, the benefits of that judgement should be extended to the applicant before us. In regard to limitation, it is pointed out that though the matter pertains to the year 1983, but drawal of lesser emoluments/pension gives continuing cause of action and, therefore, in our view, the application is not hit by limitation. In the circumstances, we pass the order as under :-

- "i) The respondents are directed to fix the pay of the applicant in regular senior scale of Rs.3000-4500 w.e.f. 26th July, 1988 (fixing his pay first in Group 'B' scale of Rs.2000-3500 then in Group 'A' junior scale of pay of Rs.2300-4000 and then in Group 'A' Senior Scale of pay of Rs.3000-4500),
- ii) The applicant would, however, be entitled to arrears of pay fixation under this order from three years prior to the date of filing this application.
- iii) The respondents are directed to fix the pension of the applicant and all consequential benefits on the basis of revised pay and to pay the applicant all arrears within a period of four months from the date of communication of this order.
- iv) There will no orders as to costs."

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8. The OA and MA are allowed and stand disposed of accordingly.

Gopal Singh

(GOPAL SINGH)

MEMBER (A)

RAIKOTE

(JUSTICE B.S.RAIKOTE)

VICE CHAIRMAN