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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 17.02.2000

OA 100/1996

V.B.L.Rawat S/o Shri Dwarka Prasad Rawat, aged 63 years, Retired Sr. C.M.I., Western Railway, Agra at present residing at Jaipur.

... Applicant

Versus

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

... Respondents

CORAM:

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

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.S.C.Sethi

For the Respondents

... Mr. Manish Bhandari

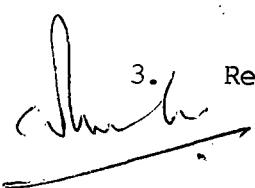
O R D E R

PER HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought following reliefs:

- "(1) That the Respondents may be directed to revise the pay of the applicant in accordance with the judgment of the Hon'ble Tribunal Annexure A/3 and Annexure A/1 and A/2 passed by the DRM(E) Kota.
- (2) That the Respondents may be further directed to revise the Pension and other post retiral benefits in accordance with the revision of pay as requested in sub para No.1 of this para and make payment of retiral benefits, dues of salary, leave encashment etc. etc. as per summary of dues enclosed herewith marked Annexure A/4 - Rs. 2,31,409.
- (3) That the Respondents may be directed to pay the interest @ Rs. 18 % on the whole amount of Rs. 2,31,409/- from 1st Jan. 1996 till payment because the same has been with-held in an illegal and arbitrary manner."

2. The applicant claims that as per order dated 29.6.1994 in OA No.1079/92 of this Tribunal, the penalty imposed on him was set aside and the respondents were directed to give him all consequential benefits. Accordingly, the DRM, Kota had vide his letter dated 13.1.1995 (Ann.A1) had informed him with copy to concerned officers that all such consequential benefits will be available to him. Vide letter dated 3.2.1995, he was informed that the periods when he was under suspension are treated as spent on duty for all purposes and he will be eligible to his pay and allowance to which he would have been entitled had he not been suspended. The applicant alleges that inspite of this, the respondents have not paid him the complete dues that he is entitled to.

3. Respondents have filed a reply in which they have stated that all his
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entitled dues have been paid and vide letter dated 29.1.1998 (Ann.R1), revised calculation sheet has been sent to FA&CAO (Pers) for necessary action as per judgment of the CAT dated 29.6.1994.

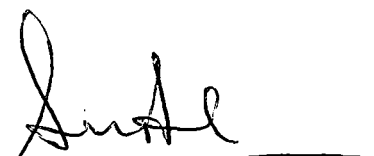
4. We have heard the learned counsel for the parties and have examined the material on record. During the arguments, the fact of payment of Rs. 42,007/- + Rs. 5,102/- as consequential benefits was not disputed. However, it was asserted on behalf of the applicant that as per his calculations (summary at Ann.A4) total dues that are payable to the applicant are Rs. 2,31,409/- inclusive of interest @ 18% from September, 1990 to December, 1995 on Rs. 1,17,331/- which was payable to him on account of arrears of pay, pension and other retiral benefits. It also transpired during the arguments that the difference between the calculations of the applicant and the respondents is perhaps due to applicant claiming a promotion to the scale of Rs. 2375-3500 (RP) to which his juniors S/Shri B.L.Gupta, K.G.K.Swami, Pradeep Kumar and Maichand were promoted during his punishment period and which should have been given to him as part of "all the consequential benefits", especially when it was not on selection basis and was allowed on the basis of seniority. The learned counsel for the respondents rebutting such a claim, stated that promotion is no right and since the applicant had already retired, he could at best ask to be considered, and if found suitable he be given notional promotion.

5. We have carefully gone through the records but it is not possible for us to determine whether it is a fact that his juniors were promoted and whether he was also considered. The applicant has no right of promotion but he certainly has a right to be considered if he was eligible and if his juniors were actually promoted, such consideration should be treated as part of "all consequential benefits". We do observe that the letter dated 29.1.1998 (Ann.R1) and the enclosed revised calculation sheet mentions the applicant's pay as Rs. 2300/- in the scale of Rs. 2000-3200 (RP). However, the applicant claims that if ~~the~~ he was promoted alongwith his juniors, he would have been enjoying the pay of Rs. 2375/- from April, 1989 and Rs. 2450/- from April, 1990 on account of his promotion to the pay scale of Rs. 2375-3500 and his arrears, pension and retiral benefits would have been calculated accordingly.

6. We, therefore, dispose of this Original Application with a direction to the respondents to consider promotion of the applicant, if found suitable, in the pay scale of Rs. 2375-3500 from the date his juniors were promoted and if he is found fit for promotion, recalculate his arrears of pay, arrears of pension and other retiral benefits and pay him the same. This direction may be carried out as expeditiously as possible but not later than six months from the date of receipt of a copy of this order.

7. Parties to bear their own costs.


(N.P.NAWANI)*
Adm.Member


(S.K.AGARWAL)
Judl.Member