

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 181/1998

189

T.A. No.

DATE OF DECISION 1.11.2002

S.S. GUPTA

Petitioner

MR. P.V. CALLA

Advocate for the Petitioner (s)

Versus

UOI & ORS.

Respondent

MR. R.G. GUPTA

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Gopal Singh)  
Adm. Member

May kindly see.  
*[Signature]*

(G.L. Gupta)  
Vice Chairman

Hon'ble VC

In the Central Administrative Tribunal  
Jaipur Bench, Jaipur

...

Date of Order: 1.11.02

D.A. NO.: 181/1998

S.S. Gupta aged 49 years S/o Shri Pyarelalji Gupta,  
resident of Raj Hans Bhawan, House No. A-44, Prem Nagar,  
Foyasagar Road, Ajmer. Official Address : C/o The D.R.M.  
Office, Western Railway, Ajmer.

..... Applicant.

vs.

1. Union of India through the General Manager,  
Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway,  
Ajmer.
3. The Divisional Commercial Manager, Western Railway,  
Ajmer.
4. The Sr. Divisional Personnel Officer, Western  
Railway, Ajmer.
5. The Assistant Personnel Officer (Estt.I)  
Western Railway, Ajmer.

..... Respondents,

.....

CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman  
Hon'ble-Mr. Gopal Singh, Administrative Member

.....  
Mr. P.V. Calla, counsel for the applicant.  
Mr. R.G. Gupta, counsel for the respondents.

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*Copied &*

ORDER

Per Mr. Gopal Singh, Administrative Member :

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, S.S. Gupta, has prayed for a direction to the respondents to grant to the applicant annual increment in the scale of Rs. 2375-3500 with effect from 1.7.95 before fixing his pay in the pay scale of Rs. 7450-11500 recommended by the V Central Pay Commission and pay all the arrears of pay and allowances. It has also been prayed by the applicant that directions be issued to the respondents to pay to the applicant his salary/wages for the period from 1.6.95 to 10.6.95 (both days inclusive) and also to include the name of the applicant in the statement notified vide letter dated 3.12.97 (Annex.A/1).

2. Applicant's case is that he was initially appointed as Commercial Apprentice with the respondent-department on 23.12.73. He was promoted as Divisional Commercial Inspector in the pay scale of Rs. 2375-3500. It is the grievance of the applicant that his annual increment in the pay scale of Rs. 2375-3500 falls on 1st of July every year but, he has not been given any increment for the years 1995, 1996 and 1997. It is also pointed out by the applicant that though, he actually and physically performed his duties for the period from 1.6.95 to 10.6.95, he has not been paid salary/wages for the said period. The

*Gopal Singh*

applicant had made several representations in this regard but to no avail. Hence, this application.

3. In the counter, it is pointed-out by the respondents that the applicant has suppressed the material fact while filing the present O.A. The applicant remained un-authorisedly absent from duty from 23.11.94 to 8.6.95 without applying for leave or getting it sanctioned as there was no leave in balance to his credit. But, he drew full pay for that period. In these circumstances, an overpayment of Rs. 49,575/- had been made to the applicant. That over-paid amount was sought to be recovered from the applicant but, applicant had preferred O.A. No. 643/96 before this Tribunal and the orders of recovery were stayed by this Tribunal. It has, therefore, been submitted by the respondents that in these circumstances, the respondents cannot proceed further in the matter on account of stay in force.

4. We have heard the learned counsel for the parties and perused record of the case carefully.

5. The O.A. No. 643/1996 was decided by this Tribunal on 10.4.2002 with the following observations :-

"6.3 ..... We are of the view that subject to corrections based on the clarifications by the respondents, the leave account of the applicant may be finalised and part of the absence of the applicant may be regularised by the leave which is now become due and the balance period as per rules. It is accordingly directed. Let this case be finalised by the respondents within two months from the date of receipt of the order and till then no further recovery be made from the applicant."

Regularisation of leave period in terms of Tribunal's order (supra), has not so far been done by

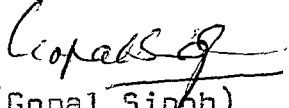
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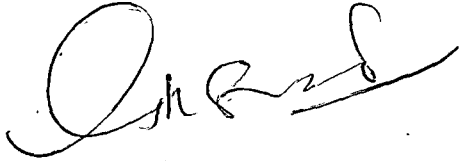
the respondent-department and hence, the recovery against the applicant remains outstanding. In the circumstances, we are of the view that the period of un-authorised absence of the applicant be regulated in terms of this Tribunal's Order dated 10.4.2002 passed in O.A. No. 643/1996 and regulate the pay of the applicant including grant of increment as per rules, accordingly. Even after regulation of pay and allowances of the applicant in this manner, some over-payment remains out-standing, the same should be recovered from the applicant by giving him due notice.

6. The prayer of the applicant for grant of salary/wages for the period from 1.6.95 to 10.6.95, is not directly related to the main relief of grant of increments in the pay scale of Rs. 2375-3500, we express no opinion on the same.

7. The O.A. is disposed of in terms of the above directions. The Interim Order issued on 10.4.2002 stands vacated. These orders are to be complied with within three months from the date of receipt of a certified copy of this order.

8. No order as to cost.

  
(Gopal Singh)  
Administrative Member

  
(G.L. Gupta)  
Vice Chairman