

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.255/98

Date of order: 18/4/2001

Chhitar Singh, S/o Sh.Sultan Singh, Ex.Sr.Bridge
Khallasi, R/o House No.16/109, Shiv Nagar, Ajmer.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Rly.Manager, Western Railway, Ajmer.

...Respondents.

Mr.N.K.Gautam - Counsel for applicant

Mr.R.G.Gupta - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

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

In this O.A under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct respondent No.2 to revise the pay of the applicant w.e.f. 1.4.88 in the grade 1200-1800 or 1350-2040, as per seniority list. Further directions are also sought to pay the applicant arrears of pay w.e.f. 1.4.88, including revision of pension and retiral benefits.

2. In brief the case of the applicant is that the applicant retired from the post of Bridge Khallasi on 31.12.90 and at the time of retirement he was drawing the pay scale Rs.950-1500. It is stated that vide notification dated 1.1.92, revised distribution of the post of Bridge Erection Khallasi was done w.e.f. 1.4.88 and accordingly, respondent No.2 vide letter dated 21.3.97, notified the pay fixation of S/Sh.Ram Brij, Ishwar Lal Suja and Ghewar Bhagu in the grade of 1200-1800 w.e.f. 1.4.88 but the pay fixation of the applicant was not done. The applicant sent notice dated 22.5.97 through his

counsel to the respondents to fix his pay w.e.f. 1.4.88 and to pay him arrears and revision of pension accordingly but nothing was done. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. In the reply, it is stated by the respondents that the applicant was superannuated from 31.12.90 and after notification dated 1.1.92, the trade test for the post of Bridge Erection Khallasi Gr.II' and Gr.I was conducted which was cleared by S/Sh.Ram Brij, Ishwar Lal Suja and Ghewar Bhagu and thereafter they were promoted vide order dated 3.1.94. The applicant was not in service and he did not appear in the trade test, therefore, his claim for fixation of higher grade of pay scale is baseless. It is also stated that on the date when the applicant retired, the post in question was not in existence. Therefore, the applicant has no case and the O.A devoid of any merit is liable to be dismissed.

4. Rejoinder has also been filed reiterating the facts stated in the O.A.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The counsel for the applicant submits that as per notification dated 1.1.92 the promotional benefits were made effective from 1.4.88 and the applicant was in service upto 31.12.90, therefore, he is entitled to the promotional benefit from 1.4.88 to 31.12.90 and consequential revision in pension. In support of his contention, he has referred S.G.Wadekar Vs. UOI & Ors, (1989) 11 ATC 188. On the other hand, the counsel for the respondents has urged that the applicant was superannuated on 31.12.90 and notification was issued on 1.1.92 for promotional post. A trade test was necessary for the promotional post and those who cleared the trade test were promoted w.e.f 1.4.88. The applicant's case was not considered

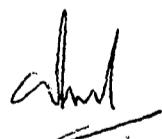


as the post in question was not in existence on the date of his superannuation and the applicant was superannuated on 31.12.90, therefore, the applicant did not clear the trade test which was necessary for entitlement of promotion. Therefore, the applicant was not considered.

7. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

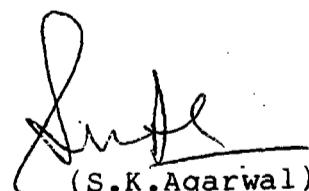
8. Admittedly, the applicant was superannuated on 31.12.90 and notification for promotion was issued on 1.1.92. It is also undisputed fact that S/Shri Ram Brij, Ishwarlal and Ghewar Bhagu were given promotion after they cleared the trade test which was necessary and essential for promotion. Admittedly, the applicant did not clear the trade test. It is also clear from the averments of the parties that the promotion post for which the applicant makes a claim was not in existence on the date of superannuation of the applicant. Further that the cause of action has arisen to the applicant after notification dated 1.1.92 but the applicant approached this Tribunal in the year, 1977, much after the cause of action has arisen to him. The legal citation as referred by the counsel for the applicant does not help the applicant in any way.

9. We, therefore, dismiss the O.A having no merit with no order as to costs.



(N.P. Nawani)

Member (A).



(S.K. Agarwal)

Member (J).