

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 17/1/2001

OA 40/98

Pooran singh, Moulder, Department No.1, Foundry Loco Workshop, Ajmer.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Works Manager, Loco Head Office, Western Railway, Ajmer.
3. Dy.C.M.E (Loco), Loco Head Office, Western Railway, Ajmer.

... Respondents

CORAM:

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

HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.S.R.Chourasia

For the Respondents ... None

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

The applicant has sought following relief in this OA

:-

"The Hon'ble Tribunal may kindly be pleased to issue appropriate writ, direction or order, quashing impugned order dated 18.10.97 (Ann.A/1) and compelling the respondents to pay arrears of pay and allowances from 13.1.93 upto date and future with interest @ 24% P.A. and costs of the proceedings."

2. Facts, as per the applicant, are that he was initially appointed in the year 1979 and was promoted to the post of Moulder Grade-III on 18.8.86. Suddenly, through an order dated 7.9.89, he was reverted to the post of Khalasi without assigning any reason. Further, vide order dated 13.1.93, Om Prakash, Naresh Kumar and Panna Singh, juniors to the applicant, were promoted to the post of Moulder Grade-II scale Rs.1200-1800. The applicant represented to the department and after protracted correspondence it was agreed by the administration that the said reversion of the

applicant was wrongful and his date of promotion as Moulder was corrected to 18.8.86, the date on which he was initially promoted. Consequently, vide order dated 13.8.97, the applicant was promoted as Moulder Grade-II scale Rs.1200-1800 w.e.f. 13.1.93. He was assigned his due seniority as Moulder Grade-II on that basis. It has been stated by the applicant that his reversion was wrongful and illegal which was in fact recognised by the department and subsequently corrected but the respondents are refusing to pay him the arrears for the period for which he remained in a lower grade for no fault of his.

3. The respondents in their reply have admitted the facts in so far as they relate to the applicant's promotion, wrongful reversion and then restoring him to his rightful position. It has been stated that the reversion was ordered as the seniority of the applicant had come under some dispute. They have also submitted that after necessary rectification the applicant has been granted proforma fixation of pay but the arrears of pay are not payable in terms of the provisions contained in Para-228 of the Indian Railway Establishment Manual Vol.I (for short, IREM).

4. Heard the learned counsel for the applicant.

5. The only short point involved in this case is whether the respondents are within their right to deny payment of arrears to the applicant. Respondents' entire argument is based on the provisions contained in Para-228 of the IREM. It will be necessary to reproduce the relevant portion of para-228 of the IREM :-

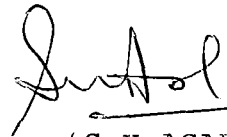
228.
 "Erroneous Promotions --(I) Sometimes due to administrative errors, staff are over-looked for promotion to higher grades could either be on account of wrong assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of ordering promotion or some other reasons. Broadly, loss of seniority due to the administrative errors can be of two types :-
 (i) Where a person has not been promoted at all because of administrative error, and
 (ii) Where a person has been promoted but not on the date from which he would have been promoted but for the administrative error."

Mere reading of this para indicates that this relates to overlooking the claim of promotion to higher grade due to administrative errors and these administrative errors have been described as of two types, as stated in (i) and (ii) above. The instant case is not one where the applicant had not been promoted because of any administrative error. It is a case of an employee who had been promoted correctly in his due turn but at a later point of time was reverted without proper reasons. The department realised its mistake and rectified the same. Their action, in fact, amounted to causing totally avoidable harassment to an employee. The provisions of Para-228 of the IREM cannot come to the help of respondents and their stand that in terms of this para the arrears are not payable, is liable to be rejected. We observe that the department has not indicated any sense of remorse inasmuch as no efforts seems to have been made in fixing responsibility for this careless action resulting into harassment of an employee. The prayer of the applicant for payment of arrears is based on sound rational and needs to be accepted.

6. We, therefore, allow this OA and direct the respondents to make payment of all the arrears which become due to the applicant from the date of his reversion to the lower grade to his reinstatement and further from the date his juniors were promoted to the higher grade. We further direct the respondents to pay interest at the rate applicable to GPF accumulation from the date arrears became due to the date of actual payment. The respondents are further directed to fix responsibility for this wrongful action of reverting the applicant. The amount of interest paid should be recovered from the officials so held responsible. No order as to costs.



(A.P. NAGRATH)
MEMBER (A)



(S.K. AGARWAL)
MEMBER (J)