

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 10.1.2001

OA 462/99

Om Prakash Sharma, CTNL in O/o DRM, W/Rly, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Divisional Rly Manager, W/Rly, Jaipur Division, Jaipur.
3. Chief Project Manager, W/Rly, Jaipur Division, Jaipur.

... Respondents

CORAM:

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.P.V.Calla

For the Respondents ... Mr.T.P.Sharma

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, applicant Om prakash Sharma has prayed for quashing the impugned order dated 7.9.99 (Ann.A/1) and for a direction to the respondents to pay to the applicant salary in the pay scale of Rs.2375-3500 treating him to be promoted in the said pay scale w.e.f. 31.5.95 and further, the respondents be restrained not to make any recovery from the applicant.

2. Applicant's case is that initially he was appointed through Railway Recruitment Board on the post of Trains Clerk (TNC) on 13.8.74 with the respondent department. The applicant was deputed to Construction Organisation, where he reported for duty on 22.7.91 and was posted on the post of Traffic Inspector. While the applicant was working on the post of Traffic Inspector in the Construction Organisation, one post of CTNL in the Divisional Office (parent department) fell vacant on retirement of one Shri R.K.Gupta. The applicant represented his case that he being seniormost

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in the cadre was eligible for promotion to the post of CTNL scale Rs.2375-3500 and requested that he may be promoted on ad hoc basis till regular selection is made. On advise from the Divisional Office that the applicant was seniormost TNL and as per his seniority he was eligible to be promoted as CTNL pay scale Rs.2375-3500, Construction Organisation promoted the applicant to the higher grade of Rs.2375-3500 purely on ad hoc basis vide their order dated 31.5.95 (Ann.A/11). Subsequently, the applicant was promoted to the post of CTNL scale Rs.2375-3500 in his parent office on ad hoc basis vide respondents' order dated 20.2.96 and the applicant joined the promotional post in his parent department on 10.1.98. The applicant was given pay fixation in the scale Rs.2375-3500/7450-11500 and was granted subsequent increments periodically. However, the respondents vide notice dated 3.4/5.99 pointed out to the applicant that promotion given in the Construction Organisation in the same pay scale of Rs.2375-3500 cannot be treated as promotion in the Division, hence the benefit of pay fixation of that grade cannot be granted to the applicant which was earlier granted to him by mistake. On considering the representation of the applicant on the subject, the respondents issued the impugned order dated 7.9.99 revising the pay fixation of the applicant. The applicant submitted further representations on 13.7.99 and 20.9.99, but to no avail, hence this application.

3. In the counter it has been stated by the respondents that the applicant got promotion on ad hoc basis in the Construction Organisation on the post of CTNL and the benefit of officiating on that post cannot be given in his parent cadre (Divisional Office).

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

5. No doubt, the applicant was granted higher scale of Rs.2375-3500 in the Construction Organisation with the consent of his parent department. There was also a post available in the parent department in that scale and the applicant was the seniormost person entitled for promotion to that post. Though the applicant cannot be treated as

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promoted to the post of CTNL in the Divisional Office from the date he was promoted in the Construction Organisation, however, he cannot be denied the benefit of counting the period of officiation on the post of CTNL in the Construction Organisation for the purpose of pay fixation on his promotion in the Divisional Office on the post of CTNL i.e. the applicant would be entitled to count the period spent in the Construction Organisation in the scale of Rs.2375-3500 for the purpose of increment in that scale on his appointment as CTNL in the Divisional Office. Thus, we find there is merit in this application and the same deserves to be allowed.

6. The OA is accordingly allowed with a direction to the respondents to extend the benefit of counting the period spent in the Construction Organisation in the scale of Rs.2375-3500 for the purpose of pay fixation of the applicant on his promotion as CTNL in the Divisional Office w.e.f. 10.1.98. The respondents are also restrained to recover any amount from the applicant on account of his officiation as CTNL in the scale of Rs.2375-3500 in the Construction Organisation.

7. parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)

MEMBER (A)

S.K. Agarwal
(S.K. AGARWAL)
MEMBER (J)