

In the Central Administrative Tribunal, Jaipur Bench,

J A I P U R

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Date of Order : 4.4.2002.

O.A.NO. 519 OF 1999

Ratan Lal Sharma, S/o Late Shri Balbeer Maharaj, Aged 63 years,  
Resident of H.No. 3066, Palsania Road, Nasirabad (Ajmer Distt.).

.....Applicant.

versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Chief Signal and Telecommunication Engineer, Western Railway, Mumbai.
3. The Senior Personnel Officer (E&S), Western Railway, Mumbai.
4. The Divisional Railway Manager, Western Railway, Ajmer.
5. The Senior Divisional Personnel Officer, Western Railway, D.R.M. Office, Ajmer.

.....Respondents.

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Mr. P.V.Calla, Counsel for the applicant.

Mr. Hemant Gupta, Advocate, Proxy Counsel for  
Mr. M. Rafiq, Counsel for the respondents.

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CORAM :

Hon'ble Mr. Gopal Singh, Administrative Member  
Hon'ble Mr. J.K.Kaushik, Judicial Member

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ORDER

(Per Hon'ble Mr.Gopal Singh)

In this application under section 19 of the Administrative Tribunals Act, 1985, applicant, Ratan Lal Sharma, has prayed as under:-

*Gopal Singh*

"a) Quash and set aside the following impugned orders as void, malafide and illegal :-"

i) E-1054/DOP/AII/99/11 dated 16.6.99 (Annex.A/1), signed and issued by and on behalf of Respondent No. 1, Mumbai.

ii) No.E/Sig/839/2/Part-8, dated 15.12.1998 (Annexure A/7), signed and issued by and on behalf of Respondent No. 4.

b) Direct the Respondent No. 4 to fix the pay of the applicant in the pay scale Rs. 2000-3200 RS (RP) Rules, 1986, in view of Annexure A/3 treating the applicant as regular promotee against one of the restructuring vacancy with effect from 1.3.93 and arrange payment of arrears of Salary/Wages until from 1.3.93 to 31.8.93, followed by revision in monthly pension and payment of arrears thereof on account of such revision etc. etc.

c) Any other relief which this Hon'ble Tribunal feels justified in view of the facts and circumstances of the case, including an order for awarding costs of the suit."

2. The case of the applicant is that while working as Signal Inspector Grade II in the Railways, <sup>he</sup> retired on superannuation w.e.f. 31.8.1993. A Scheme of restructuring in Groups 'C' and 'D' cadres, was introduced by the respondent-department effective from 1.3.1993 and the applicant was also eligible for the benefits of the said scheme. In fact, he was allowed the benefit ~~vide~~ respondents' letter dated 28.7.1997 placed at Annex. A/5. It was clearly mentioned in this letter that according to the pay fixation done now, in the new pay scale, the pension of the applicant should also be revised and arrears be paid accordingly. The respondent-department, however, withdrawn this aspect from the order dated 28.7.1997 on the ground that his promotion was done on proforma basis and, therefore, he was not entitled to any arrears of pay fixation. It was further indicated that the pension is payable on the average of pay for the last ten months and the applicant did not draw the pay as now fixed ~~vide~~ letter at Annex. A/5 dated 28.7.1997 and, therefore, he is not

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entitled to any arrears.

3. In the Counter, the case of the applicant has been denied and it is stated that he was not eligible for grant of arrears on account of his promotion under the restructuring scheme.

4. This case had come up earlier in the morning before us for final hearing but since the learned counsel for the respondents was not available, the same was passed-over. In the second round, when the case was called Mr. Hemant Gupta, advocate, brief holder for Mr. M. Rafiq, appeared on behalf of the respondents.

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

6. The respondents letter dated 28.7.1997 (Annex. A/5), clearly states that the applicant would be entitled to arrears of re-fixation of pay w.e.f. 1.3.1993 as also revision of pension because of re-fixation of the pay. The Scheme of restructuring placed at Annex. A/2 dated 27.1.1993, in para 11 also provides that 'employees who retire/resign in between the period from 1.3.1993 i.e. the date of effect of this restructuring to the date of actual implementation of these orders, will be eligible for the fixation benefits and arrears under these orders w.e.f. 1.3.1993'.

7. In the light of the above discussions, we find much merit in this case and the application deserves to be allowed.

8. The Application is accordingly allowed. the Impugned order dated 16.6.1999 (Annex. A/1) and the order dated 15.12.1998 (Annex. A/7), are quashed and set aside. The respondents are directed to release the arrears of pay fixation of the applicant on his promotion under

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the restructuring scheme w.e.f. 1.3.1993. They are also directed to revise the pension of the applicant on the basis of revised pay fixation done vide respondents letter dated 28.7.1997 at Annex. A/5. The respondents are given three months time from the date of receipt of a copy of this order, to comply with these orders. In case, the orders are not complied with within the specified time, the respondents will be liable to pay interest on arrears at the rate of 9% per annum.

9. The parties are left to bear their own cost.

J.K. Kaushik  
(J.K.Kaushik)  
Judl Member

Gopal Singh  
(Gopal Singh)  
Adm. Member

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mehta