

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 2-06-03

OA 237/2003

Paghunath Pagra s/o Shri Shiv Narain Pagra r/o Village Moriha Tehsil Chomu Distt. Jaipur.

... Applicant

1. Union of India through its General Manager, North-Western Railway, HQs Office, Jaipur.
2. Divisional Fly Manager, Jaipur Division, W/Fly, Jaipur.

... Respondents

CORAM:

HON'BLE MR. M. L. CHAUHAN, JUDICIAL MEMBER

For the Applicant ... Mr. A. N. Gupta
For the Respondents ... —

O R D E R

PEF HON'BLE MR. M. L. CHAUHAN, JUDICIAL MEMBER

This application is directed against the order dated 24.7.95 (Ann.A/1). According to the applicant, he was promoted to the post of STI in the pay scale of Rs.1400-2300 vide aforesaid order but till date neither the benefit of such pay scale has been extended to him despite several requests nor the benefits of Selection Scale and Fifth Pay Scale have been extended to him. The applicant has been compulsorily retired from service w.e.f. 13.2.2001. It has further been pleaded that he has made several requests to the respondents but no such benefit has been given to him. He has not placed any document on record to suggest that he has made several requests to the authorities concerned for the relief sought by him in the present OA, except a notice for demand of justice dated 2.12.2002 (Ann.A/2). It is on these basis that he has filed the present OA praying for the following reliefs :

"i) That humble applicant be extended the benefits of promotion order dated 24.7.95 the pay scale of 1400-2300 since 14.5.91 alongwith arrears of pay alongwith interest @ 18% p.a. forthwith;

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- ii) Benefits of Selection Scales alongwith arrears alongwith interest @ 18% p.a.
- iii) Humble applicant be extended the benefit of Fifth Pay Commission alongwith its arrears alongwith 18% interest p.a. forthwith;
- iv) Revised pay fixation benefits be extended to humble petitioner alongwith arrears and interest @ 18% p.a.
- v) Encashment of leave benefits be given to humble applicant;
- vi) By extending the above benefits consequential benefits in retiremental benefits be included in pension."

2. I have heard the learned counsel for the applicant. The contention of the learned counsel for the applicant is that the applicant was promoted vide order dated 24.7.95 (Ann.A/1) but till date neither the applicant has been extended the benefit of promotion nor he was given the benefit of Selection Scale. The contention raised by the applicant in this OA cannot be accepted inasmuch as from the perusal of the order dated 24.7.95 (Ann.A/1) it is quite clear that it is not a promotion order of the applicant on the post of STI in the pay scale of Rs.1400-2300. As can be gathered from Ann.A/1, ~~4/1~~ the applicant who, at the relevant time, was a Goods Guard on running side in the pay scale of Rs.1200-2040, was medically decategorised and was absorbed in an alternative post of STI in the pay scale of Rs.1400-2300 on ad hoc basis vide order dated 14.5.91 and vide this order he was absorbed as STI in the aforesaid scale on regular basis and it was further recorded that his seniority in this scale shall be determined according to para 9(1) of Master Circular No.25. Thus, from the perusal of this order it is quite clear that the order dated 24.7.95 (Ann.A/1) cannot be termed as a promotion order whereby promoting the applicant to the post of STI, rather it is an order whereby the applicant, who was earlier medically decategorised as Goods Guard, was absorbed in the alternative post of STI on ad hoc basis vide order dated 14.5.91 and vide this order he was treated to have been absorbed as STI on regular basis. The learned counsel for the applicant has not been able to convince this Tribunal how the order (Ann.A/1) can be treated as a promotion order of the applicant to the post of STI. It is not the case of the applicant that on

being absorbed as STI in the higher pay scale of Rs.1400-2300 his pay on such absorption has not been refixed according to rules. Admittedly, his pay was not required to be fixed at higher stage as he was never promoted to the post of STI. Rather his pay was required to be fixed on absorption in the alternative post at a stage corresponding to the pay previously drawn by him in the post held by him on regular basis before acquiring disability/medical decategorisation by adding running allowance as may be in force at the relevant time. Since it is not the case of the applicant, as already stated above, that his pay has not been correctly fixed on absorption in an alternative post, no finding on this point is required to be given. According to the rules, the applicant was entitled for refixation of his pay on his absorption as STI and he was not entitled for refixation of his pay at higher stage as he was never promoted to the post of STI. As such, the applicant has failed to make out any case in his favour for granting him the reliefs as prayed for by him in the present OA. It may further be observed that the applicant was medically decategorised and absorbed in an alternative post vide order dated 14.5.91. He has been compulsorily retired on 13.2.2001. During this period, the applicant has not represented against his absorption against the alternative post of STI and also regarding his fixation of pay on his absorption against the post of STI. It is only now that the applicant has set up entirely new case which is not borne out from the material placed on record.

3. Thus, in view of what has been stated above, the present OA is totally misconceived. It is, therefore, dismissed at the admission stage with no order as to costs.


(M.L.CHAUHAN)

MEMBER (J)