

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

Date of Decision : 26.05.2004

Original Application No.570/2003

Devendra Kumar Malhotra S/o Late Chunni Lal Malhotra, retired Station Superintendent, Nagore, R/o 201, Padmawati Colony-1 Kings Road, Ajmer.

... Applicant.

versus.

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Personnel Officer, Northern Railway, Jodhpur.

... Respondents.

Mr. Vishnu Kumar Sharma counsel for the applicant.

Mr. U. D. Sharma counsel for the respondents.

CORAM

Hon'ble Mr. M. L. Chaunay, Judicial Member.

Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) ;

The applicant has filed this OA thereby praying for the following reliefs :-

"i) By issuing order or directions or in the nature thereof, after calling for and examining the entire record of the case Direct the respondent to make the applicants pay fixation in the pay scale of 7540-11500 and grant him all consequential benefits along with interest @24% per annum from the Month of August 2000.

ii) Any other appropriate order or direction which the Hon'ble Court deems fit and proper in the facts and circumstances of the case may also be passed in favour of humble applicant.

iii) Cost of this OA may also be awarded in favour of humble applicant."

2. It may be relevant to state that the applicant has earlier also filed OA No.470/2001, whereby he has prayed for the following reliefs :-

"i) By issuing order or direction or in the nature thereof, after calling for and examining the entire record of the case, set aside the order dt. 25.08.2000.

- ii) Direct the respondents to make the applicants pay fixation in the pay scale of 7540-11500 and grant him all consequential benefits alongwith interest @24% per annum from the month of August 2000.
- iii) Direct the respondents to make payments of the Transfer and Packing Allowance which are still due to the applicant alongwith interest @24% per annum from the date they are due.
- iv) Direct the respondents to refund the amount which the applicant incurred while travelling as Witness in case of Sh. M. R. Bhansali.
- v) Direct the respondents to issue the Post retiral complimentary Pass that the applicant is entitled to.
- vi) Any other appropriate order or direction which the Hon'ble Court deems fit and proper in the facts and circumstances of the case may also be passed in favour of humble applicant.
- vii) Cost of this OA may also be awarded in favour of humble applicant."

The said OA was disposed of vide order dated 18.11.2002. At this stage, it may be relevant to refer to contention raised by the applicant in Para 2 of the judgement whereby the applicant has stated that he is restricting his relief only to the impugned order dated 25.08.2000 whereby the respondents had ordered to recover an amount of Rs.13,773/-. His further contention was that before the issuance of impugned order, no show cause notice has been issued to the applicant and as such this violates the principles of natural justice and deserves to be dismissed on this count.

3. This Tribunal on the basis of submission made by the learned counsel for the applicant quashed and set aside the impugned order. Respondents were directed that they are open to take such action as consider necessary in thematter as per rules and after following due process of law. It was further made clear in that order that in case the applicant feels aggrieved by the order finally issued in this regard, he is given liberty to approach this Tribunal by filing another OA.

4. The applicant has now filed this OA No.570/2003, thereby praying that the respondents be directed to make the applicant's pay fixation in the pay scale of Rs.7540-11500 and grant him all consequential benefits alongwith interest @24% per annum from the month of August 2000.

5. Notice of this application was given to the respondents.

Respondents have filed reply. In the reply, they have taken preliminary objection that the applicant had earlier filed OA NO.470/2001, where he had sought various reliefs and one of relief was the same has been prayed in this case. Thus, according to the respondents when once the applicant has restricted his relief only to the order dated 25.08.2000 whereby the respondents had ordered to recover an amount of Rs.13.773/-, it is not legally permissible for the applicant to file fresh OA as in earlier OA he has abandoned the relief regarding fixation of his pay in the pay scale of Rs.7450-11500.

6. We have considered the submissions made by learned counsel for the parties. We are of the view that there is much force in the submission made by learned counsel for the respondents. As can be seen from the relief clause in earlier OA as well as in the present OA, which has been reproduced in the earlier part of the order, it is evident that the applicant has also prayed for the relief regarding fixation of his pay in the pay scale of Rs.7450-11500 in earlier OA which relief he has abandoned. In view of this, the present OA is wholly mis-conceived and the applicant cannot be permitted to seek the same relief again which amounts to abuse of process of court. Accordingly, the OA is dismissed at admission stage with no order as to costs.

7. In view of the order passed in OA NO.570/2003, MA No. 183/2004 filed for interim relief is accordingly dismissed.

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(A.K. BHANDARI)  
MEMBER (A)

*B*  
(M. L. CHAUHAN)  
MEMBER (J)