

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 930/1997

Ramesh Chandra Dubey, S/o. Late
Shri Munshilal Dubey, aged 55
years, Retd. C.A.S.M. Central Railway,
R/o. Opp. Kode Hanuman Tample,
Near Railway Station, Khandwa.

... Applicant

V e r s u s

1. Union of India, through General Manager, Central Railway, Chatrapati Shivaji Terminal, Mumbai.
2. Divisional Railway Manager, Central Railway, Bhusawal (MS). ... Respondents

Counsel :

Shri D.M. Kulkarni for the applicant.
Shri Y.I. Mehta, Sr. Adv. assisted with Shri H.Y. Mehta for the respondents.

Coram :

Hon'ble Shri Justice N.N. Singh - Vice Chairman.
Hon'ble Shri Govindan S. Tamai - Member (Admnv.).

O R D E R (Oral)
(Passed on this the 18th day of February 2003)

The applicant has filed this original application for direction to the respondents to pay one increment from 01/06/1974 which was awarded by respondent No. 1 & 2 to the applicant and for paying another increment from the month of July 1978 till August 1988 as per Annexure A/7 and for payment of arrears of salary and on the basis of revised pay fixation for payment of arrears.

2. The case of the applicant is that the applicant retired on voluntary retirement on 31/08/1992 and that he was suffering loss of his pension and that as held in MR Gupta's case reported at 1995 SCW 4675 = 1995 (31) ATC 186 it was a continuing wrong. According to the applicant he was working as Assistant Station Master on 01/02/1962 and

was
in May 1974 he posted at Khandwa when there was a general
strike by the Railway employees, but the applicant did not
join the strike and he worked sincerely, for which a
certificate was granted by the then Collector, Khandwa
Annexure A/1. The applicant claimed that he was drawing
basic salary of Rs. 404/- on 01/06/1974 and that he was not
given cash reward during the period of strike. He was con-
sidered for an advance increment alongwith other loyal
class III staff and by letter Annexure A/5 dated 20/09/1974
advance increment was sanctioned raising his pay from Rs.
404/- to Rs. 416/- with effect from 01/06/1974 for being
loyal to the administration during the strike. However the
case of the applicant is that he was not paid that increment
though sanctioned for which he filed representation. He also
denied that he was on leave for 15 days during the strike
period. According to the applicant instead of making payment
of advance increment the same was illegally deducted and
after 13 years respondent No. 2 by his letter dated 31/08/97
(Annexure A/8) the same was withdrawn on the plea that the
applicant was on average pay leave from 14/05/1974 to 28/5/74
total 15 days. The applicant claimed that he was entitled
to get one increment with effect from 01/06/1974 and the
another with effect from July 1978 till August 1988 as per
Annexure A/7. The applicant further raised, point of
restructuring, but being a plural remedy, that is not being
considered in this Original Application.

3. In the reply the respondents admitted that the
applicant was awarded advance increment raising his pay from
Rs. 404/- to Rs. 416/-, but the same was not granted to the
applicant since he was on leave from 14/05/1974 to
31/05/1974 i.e. for 15 days and as per headquarters letter
dated 05/08/1975 (Annexure R/I) anyone being ^{on} unauthorised

leave for more than 2 days was not eligible for incentive. It was claimed that as the applicant was unauthorised leave for 15 days he could not be granted increment and as such the same ^{was} rightly with-held by the respondents lowering his pay from Rs. 416/- to Rs. 404/-. The respondents however did not deny that the applicant had not participated in the Mumbai's strike but as per headquarter, letter dated 05/08/1975 those who were on leave for more than 2 days were not eligible for grant of advance increment. The respondents also denied that the applicant should have been promoted in the scale of Rs. 550/-750/- as he was not eligible for promotion against re-structuring.

4. We have heard learned counsels of both the parties and have gone through the record. Admitted case is that the applicant was granted one advance increment for being loyal during the strike period since 1974 and an order was passed granting him one advance increment. The respondents also does not say that the applicant had participated in the strike. The only plea for denial of the increment granted by the respondents after 13 years, was simply that he was on unauthorised leave from 14/05/1974 to 28/05/1974. The applicant denies that he was on leave. However in view of the fact that he had not participated in the strike, as asserted by the respondents, the order granting advance increment to him should not have been withdrawn much less after 13 years of granting it. The other grounds taken by the applicant are not entertainable in this OA as that would make this OA seeking plural remedies which is not permissible by law. So his other prayer regarding restructuring has not been considered. Since his pay fixation has been incorrectly done resulting in his reduced pension his case is squarely covered by MR Gupta's case supra.

5. In the result we partly allow this OA by asking the respondents to refix his pay by not withdrawing the increment already granted to him in 1974 and then to refix his pension. The applicant will not however be entitled to get any arrears of pension and arrears he can get it only of last 3 years from the date of payment. There will be no order as to cost.

(GOVINDAN S. TAMPI)
MEMBER (A)

(N.N. SINGH)
VICE CHAIRMAN

"SA"

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