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17.04.2007
CA 164/2006 with MA 109/2006

Present : None for the parties.

This case has been listed before the Deputy Registrar due to non-availability of Division Bench. Be listed before the Hon'ble Bench on 24.04.2007.


(GURMIT SINGH)
DEPUTY REGISTRAR

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*Rejoinder
Not filed
&
18-4-07*

OA No.164/2006 with MA No.109/2006.

24.04.2007.

None present for the applicant.
Mr. S. S. Hassan counsel for the respondents.

This case has been listed before the Deputy Registrar due to non availability of Division Bench. Be listed before the Hon'ble Division Bench on 24.07.2007.


(GURMIT SINGH)
DEPUTY REGISTRAR


*Rejoinder
Not filed
&
17-7-07*


P.C./

24.7.07

Mr. H.S. Choudhary, Counsel for applicant
Mr. Dilshad Khan, Party Counsel for
Mr. S.S. Hassan, Counsel for respondents

Heard. The OA is disposed of by a separate order.


(J.P. Shukla)
M(LA)


(Kuldip Singh)
V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 24th day of July, 2007

ORIGINAL APPLICATION No.164/2006

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR. J.P.SHUKLA, ADMINISTRATIVE MEMBER

Kishore Singh
s/o Shri Magan Singh Purohit,
aged about 71 years, retired Sr. T.I.A.,
Deputy Chief Accounts Officer (T.A.), Ajmer
r/o Panch Sheel Colony, Ramganj,
Ajmer.

.. Applicant

(By Advocate: Shri H.S.Chaudhary)

Versus

1. Union of India through
General Manager,
Western Railway,
Churchgate,
Mumbai.
2. The Financial Advisor and
Chief Accounts Officer,
Western Railway,
Churchgate,
Mumbai.
3. The Deputy Chief Accounts Officer (T.A.)
Traffic Accounts Office,
Western Railway,
Ajmer.

.. Respondents

(By Advocate: Ms. Dilshad Khan, proxy counsel to Mr. S.S.Hasan)

O R D E R (ORAL)

The applicant has filed this OA seeking following reliefs:-

- i) By an appropriate writ, order or direction, the respondents be directed to extend the benefit of the judgment/order dated 9.8.2000 passed by this Hon'ble Tribunal in O.A. No.566/94 and O.A. 41/95 which has become final by dismissal of the Writ Petitions filed by respondents against the same before Hon'ble High Court, Jaipur Bench, Jaipur by an Order dated 30.4.2003.
- ii) The respondents be directed to grant notional pay fixation to the applicant in the cadre of Clerk Grade-I w.e.f. 11.03.1973 when his erstwhile junior in coaching unit has been so promoted earlier as Clerk Grade-I.
- iii) The respondents be directed that for the period the applicant has actually performed the duties of Clerk Grade-I that is w.e.f. 11.08.1977 his pay should be revised on the basis of such notional fixation of pay and to draw pay and allowances accordingly. It may also be directed that the basic pay of the applicant in no case should be less than the basic pay being drawn by his erstwhile junior in the coaching unit.
- iv) The respondents be directed that after completing this exercise for the entire period w.e.f. 12.08.1977 to 30.6.1993, the retiral benefits of the applicant should also be revised and paid on the basis of such revised fixation of pay.
- v) Any other relief which is found just, fit and proper in the facts and circumstances of the case may very kindly be passed in favour of the applicant by this Hon'ble Tribunal.

2. Facts as alleged by the applicant in brief are that initially ~~the~~ he was appointed as Clerk Grade-II in the Goods Unit in Traffic Accounts Office, Ajmer on being selected by Railway Service Commission. Subsequently he was promoted as Clerk Grade-I in the



Goods Unit in the Traffic Accounts Office, Ajmer. The cadre of Traffic Accounts Office, Ajmer was having two separate cadres i.e. 'Goods Cadre' and 'Coaching Cadre'. These cadres were merged w.e.f. 1.10.1976 and juniors were given higher seniority having been promoted earlier in the Coaching Unit. Aggrieved by this action, some employees filed Writ Petitions before the Hon'ble High Court, Jaipur Bench which were transferred to Jodhpur Bench of this Tribunal and registered as TA No.373/86 and TA No.375/86. The said TAs were decided on 8.5.1989 and the seniority list dated 30.11.1977 was set aside with direction to the respondents to recast the seniority list on the basis of merit list. The seniority list was recast on 3.11.1989. Applicant and many other employees in the cadre of Clerk Grade-I belonging to 'Goods Cadre' were placed at higher and advantageous positions vis-à-vis their erstwhile juniors in the recast seniority list dated 3.11.1989.

The grievance of the applicant is that in spite of occupying higher position in the recast seniority list, he has been deprived of notional pay fixation and consequential benefits including arrears of pay and allowances and revision of benefits including revision of pension etc.

Aggrieved by not grant of the above benefit, some similarly placed employees also filed OA Nos.566/94 and 41/95 which were disposed of by common order dated

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9.8.2000. Thereafter the respondents approached the Hon'ble High Court by filing Writ Petitions and the Hon'ble High Court has also upheld the direction of the Tribunal. This Tribunal also disposed of similar matter by rendering subsequent judgments in OA No.18/2004, Srichand vs. Union of India and others decided on 2.3.2005. It is on the basis of these judgments, the applicant is claiming similar reliefs.

3. The respondents are contesting this OA by filing reply.

4. We have heard the learned counsel for the parties and gone through the record.

5. The controversy involved in the present case is fully covered by the common judgment dated 9th January, 2007 rendered by this Tribunal in OA Nos. 181/2005, 270/2005 and 271/2005 which judgment was also rendered on the basis of order in OA Nos. 566/94 and 41/96 dated 9.8.2000 which was affirmed by the Hon'ble High Court. On the same set of lines, the present OA is also disposed of with direction to the respondents to grant notional pay fixation to the applicant in the cadre of Clerk Grade-I w.e.f. the date when his juniors were so promoted earlier. For the period the applicant has actually performed the duties of Clerk Grade-I, his pay would be revised on the basis of such

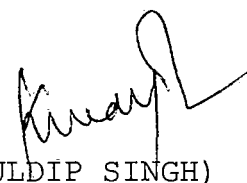


notional fixation of pay and he will be entitled to draw pay and allowances accordingly and in no case his basic pay will be less than the basic pay being drawn by his juniors. In case the applicant has been superannuated on retirement without having actually performed the duties of Clerk Grade-I, his retiral benefits including the pension will be revised on the basis of such notional fixation of pay. These directions shall be complied with within a period of four months from the date of receipt of a copy of this order. No order as to costs.

6. In view of disposal of the OA, the MA No.109/2006 is also disposed of accordingly.


(J.P. SHUKLA)

Administrative Member


(KULDIP SINGH)

Judicial Member

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