

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**CP-65/2016 in
OA-1748/2012**

Reserved on : 28.09.2016.

Pronounced on : 30.09.2016.

**Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Dharam Pal Singh,
Aged about 74 years,
S/o late Sh. Tota Ram,
Retd. Chief Telecom Inspector,
North Western Railway, Rewari.
Now resident of House No. 27,
Gali No.01, Village Khazoori Khas,
Near Yamuna Pusta, Delhi-110095.

..... Petitioner

(through Sh. H.P. Chakravorti, Advocate)

Versus

1. Mr. Anil Kumar Singhal,
General Manager, North Western Railway,
Headquarters Office, Jawahar Circle,
Jaipur (Raj.).

2. Rajeev Saxena,
Divisional Railway Manager,
North Western Railway,
Bikaner (Raj.).

..... Respondents

(through Sh. Kripa Shankar Prasad, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

This Contempt Petition has been filed for alleged non-compliance of our order dated 31.10.2013, the operative part of

which reads as follows:-

"13. In the above facts and circumstances of this case, this OA is partly allowed. Consequently, we quash and set aside the impugned letters/orders of the Respondents dated 20.08.2010, 10.09.2010, 03.02.2011 and 02.03.2011 and 02.03.2010, 20.08.2010, 10.09.2010 and 03.02.2011. As the Respondents themselves had promoted the Applicant as TCI (Grade-II) in the scale of Rs.1600-2660 on proforma basis with effect from 01.01.1984 instead of 01.11.1984 as earlier done by them, his pay in the same scale shall be fixed accordingly, if not done already. Consequently, he is to be promoted on proforma basis as TCI (Grade-I) in the scale of Rs.2000-3200 from the date his junior has been promoted to the said grade w.e.f. 09.11.1987 as the charge sheet for major penalty charge was issued to him admittedly only on 23.11.1987. Further, the period from 21.01.1991 to 24.06.1991 shall be treated as leave of the kind due and period from 25.06.1991 to 28.02.2002 shall be treated as duty as the Respondents have not allowed to join duty when he reported on 25.06.1991 and subsequently, the competent authority has quashed and set aside Charge Memo itself, vide order dated 28.03.2006. Accordingly, the Respondents shall refix the pay and allowances, pension and other terminal benefits of the Applicant and the consequential monetary benefits arising therefrom shall be paid to him with interest as admissible under the rules. They shall also pass a reasoned and speaking order showing compliance of the aforesaid directions.

14. The aforesaid directions shall be complied with, within a period of three months from the date of receipt of a copy of this order.

15. There shall be no order as to costs."

2. Review Application No. 198/2013 was filed by the OA respondents for review of the aforesaid order. This was decided by us vide order dated 02.09.2014 and our order dated 31.10.2013 was modified as follows:-

"7. We have heard the learned counsel for the Review Applicants Shri R.L. Dhawan and the learned counsel for the

Respondent Shri H.P. Chakravorty. The learned counsel for the Review Applicants has agreed with the Respondent counsel with regard to the date from which his junior has been promoted. According to the order of this Tribunal the Applicants junior has been promoted w.e.f. 09.11.1987. However, according to the Review Applicants, up to 25.06.1996, the post of TCI Grade-I has been under the control of the Headquarters and thereafter, first person promoted was Ms. R.K. Vashist w.e.f. 07.06.1999. Therefore, the Respondent in the RA is entitled for promotion only from 07.06.1999. The other grounds taken by the Review Applicants are nothing but repetition of their argument in the OA. Accordingly, they are dismissed.

8. Thus we agree with the learned counsel for the Respondents and modify our order dated 31.10.2013 holding that the Respondent (Applicant in OA) is entitled for promotion only from 07.06.1999.

9. Accordingly, this RA is allowed to the limited extent and the Order dated 31.10.2013 stands modified to that extent.

10. No costs."

3. In compliance thereof, the respondents have filed two affidavits, one on 08.07.2016 and the other on 29.08.2016. Along with the first affidavit, the respondents have annexed a copy of their order dated 30.12.2014. According to the respondents, with the passing of the aforesaid order, the order of the Tribunal stands complied with. Subsequently, on directions, the second affidavit was filed on 27.08.2016 by the respondents, along with which they have attached a copy of their correspondence dated 16.07.2016, according to which the pay and pension of the applicant has been revised and the arrear amount has been credited to the account of the petitioner.

4. We have heard both sides and perused the material placed on record. Learned counsel for the petitioner argued that while it was not disputed that the petitioner had been granted promotion on proforma basis as TCI (Grade-II) and also as TCI (Grade-I) w.e.f. the date his junior Sh. R.K. Vashishta, the petitioner's main surviving grievance was that the respondents were still imposing punishment of reduction to lower grade of 02 years w.e.f. 23.01.1991. Learned counsel for the petitioner argued that this punishment had been set aside by this Tribunal as is evident from para-12 of the order dated 31.10.2013 in question, which reads as follows:-

“12.....Finally, after the intervention of this Tribunal in **OA 584/2003** (supra), the aforesaid charge of unauthorized absence and the punishment of compulsory retirement dated 09.01.2002 were quashed and Applicant deemed to have retired from service on 28.02.2002. Therefore, the Applicant shall deemed to have been in continuous service as TCI (Grade-I) w.e.f. 11.01.1990 till his date of superannuation.”

4.1 However, after consideration of the aforesaid submission, we do not find any merit in the contention of the petitioner. This is because from the above extract, it is evident that the aforesaid punishment was quashed by this Tribunal in OA-584/2003. If the petitioner feels that the same had not been implemented by the respondents so far, he should have sought compliance of the order passed in OA-584/2003. As far as the present order is concerned, in our opinion, there has been substantial compliance of the same.

5. Accordingly, we are satisfied that no contempt survives in this case. The Contempt Petition is closed. Notices issued to the alleged contemnors are discharged.

(Dr. Brahm Avtar Agrawal)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/