



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 1467 of 2013

Date of order: 16.11.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

PROMODH KR. MISRA

VS.

UNION OF INDIA & ORS. (South Eastern Railway)

For the Applicant : Mr. M.S. Mondal, Counsel

For the Respondents : Mr. A.K. Dutta, Counsel

O R D E R (Oral)

Per Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard the Ld. Counsel for the applicant and the Ld. Counsel for the respondents.

2. The applicant filed this Original Application seeking the following reliefs:-

"(i) To direction upon the concerned respondents to get financial upgradation in favour of the applicant as per Railway Board's circular Estt. Srl. No. 120/09 under 2nd MACP has done i.e. 10.3.2010 in grade pay of Rs. 4200/- immediately.

(ii) To direct upon the concerned respondents to consider the representation dated 2.8.2010, 3.9.2010 & 2.12.2011, 5.9.2012 being annexure A-4, A-6, A-8 which was made by the applicant for financial upgradation and to pay of his grade pay as per seniority basis.

(iii) To direction upon the respondents to produce all entire records relating to this case before the Hon'ble Tribunal so that after perusing the same concessionable justice be admitted.

(iv) To pass such other or further order or orders and/or direction or directions as your Lordships may deem fit and proper."

3. It is interesting that earlier an O.A. No. 479 of 2013 was filed by the applicant before this Tribunal with the similar reliefs which has been contained in the final order passed by this Tribunal and which is annexed as

Annexure 'A-9' to the O.A. The relief claimed in O.A. No. 479 of 2013 are almost similar to the relief claimed in this O.A. The same are also reproduced hereinbelow:-

- "(i) To direction upon the concerned respondents to get financial upgradation in favour of the applicant as per Railway Board's circular Estt. Srl. No. 120/09 under 2nd MACP has done i.e. 10.3.2010 in grade pay of Rs. 4200/- immediately.
- (ii) To direct upon the concerned respondents to consider the representation dated 3.9.2010 being Annexure 'A-4' and representation dated 12.4.2012 being Annexure 'A-8' which was made by the applicant for financial upgradation of his grade pay as per seniority basis.
- (iii) To direction upon the respondents to produce all entire records relating to this case before the Hon'ble Tribunal so that after perusing the same concessionable justice be admitted.
- (iv) To pass such other or further order or orders and/or direction or directions as your Lordships may deem fit and proper."

4. The said O.A. No. 479 of 2013 was finally disposed of on 13.6.2013 with certain directions. Para 4 of the order is relevant, which is extracted hereinbelow:-

"4. Accordingly, we direct the respondents to consider and decide the representations of the applicant dated 03.09.2010, 2.12.2012 and 12.4.2012 in accordance with law within a period of 3 months from the date a certified copy of the order is produced and the decision so taken be communicated to the applicant."

5. It has been stated that the directions issued by this Tribunal has not been complied with by the respondents. Hence, on the basis of doctrine of res-judicata the claim of the applicant cannot be considered again unless the matter has been complied with in terms of the order passed by this Tribunal in O.A. No. 479 of 2013. The applicant instead of filing an application for execution or filed an application for contempt has filed this instant Original Application on 26.11.2013.

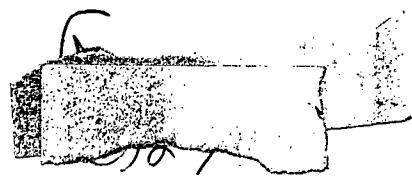


6. Hence, this petition is dismissed on the basis of the principle of doctrine of res judicata. However, the applicant would be at liberty to file an application for execution of order or a Contempt Petition for implementation of the order passed by this Tribunal, if permissible under the law.

7. With this observation, the O.A. is accordingly disposed of. No costs.



(Jaya Das Gupta)
Administrative Member



(Vishnu Chandra Gupta)
Judicial Member

SP