



AN APPLICATION :

on. 350/01541/2017

Under Section 19 of the Administrative Tribunals Act, 1985.

BETWEEN

MUKHIY TIU,
Son of Late Rautu Tiu,
Presently working as Sr.Loco Pilot (Passenger),
under Sr.DEE, Eastern Railway, Howrah
residing at Saheb Bagan, P.O. Bandel,
Distt. Hooghly, PIN : 712123.

.....Petitioner/Applicant

AND

1. Union of India, through General Manager,
Eastern Railway, 27, Netaji Subhas Road,
Kolkata – 700 001.
2. The Chief Personnel Officer,
Eastern Railway, 17 Netaji Subhas Road,
Kolkata – 700 001.
3. The Divisional Railway Manager,
Eastern Railway, Howrah.
4. The Sr. Divisional Personnel Officer,
Divisional Personnel Officer,
Eastern Railway, Howrah.
5. Sr. Divisional Elect. Engineer(OP)/TRS,
Eastern Railway, Howrah.

Mukhiy



6. Divisional Finance Manager,

Eastern Railway, Howrah.

.....Respondents.

WL

No. O.A. 350/01541/2017

Date of order: 25.4.2018

Present: Hon'ble Mr. A.K. Pattnaik, Judicial Member

For the Applicant : Mr. B.R. Das, Counsel

For the Respondents : Mr. P.B. Mukherjee, Counsel

ORDER (Oral)A.K. Pattnaik, Judicial Member:

Heard Mr. B.R. Das, Ld. Counsel for the applicant and Mr. P.B. Mukherjee, Ld. Counsel for the official respondents.

2. The case of the applicant is that the applicant was appointed as an Engine Cleaner and promoted as Assistant Driver/Electrical Assistant Driver in Howrah Division of Eastern Railway through RRB on 27.8.2001 and posted at Burdwan. Thereafter he was promoted as Loco Pilot (Shunting) Gr. II in 2004 carrying pay scale of Rs. 4000-6000/- (RSRP, 1997) in revised pay band Rs. 5200-20,200/-, GP Rs. 2400/- as per 6th CPC. Thereafter he was again promoted to the post of Loco Pilot (Goods) vide order dated 18.9.2009 in the scale of pay of Rs. 9300-34800/- with G.P. Rs. 4200/. The promotional order was issued by fixing the pay of the applicant in the promotional post by adjusting the amount due on account of higher grade pay only. The pay was not fixed under the rules by allowing increments. The applicant was neither allowed to exercise option. Thereafter the respondents came out with an order on 6.5.2014 purporting to effect correction of the pay fixed on promotion on 18.9.2008 under the pretext of a wrong fixation. The said fixation was further revised though incorrectly by order dated 6.5.2014 and was not based on any option from the applicant. In the result juniors to the applicant recruited through RRB at a later point of time is also getting pay higher than the applicant. Therefore, the applicant was entitled to fixation of pay in the promotional post w.e.f. date of promotion i.e. 18.9.2009 and was entitled by DNI w.e.f. 1.7.2010. The representations of the applicant filed by the applicant, is still pending consideration.



3. Mr. Das forcefully submitted that the applicant is entitled to fixation of his pay upon promotion with increment on 18.9.2009 in the lower grade with DNI on 1.7.2010 as per extant Rules. But the official respondents has come out with an order dated 6.5.2014 purporting to effect correction of the pay fixed on promotion on 18.9.2009 under the pretext of a wrong fixation.

He further submitted that ventilating his grievance, the applicant has already preferred a representation on 18.2.2016 (Annexure "A-5") to respondent No. 4 i.e. Sr. Divisional Personnel Officer, Eastern Railway, Howrah to recall the order under Annexure "A-1" and to grant the proper fixation of pay retrospectively.

4. I think it would not be prejudicial to either side if the respondent No. 4 is directed to consider the said representation under Annexure "A-5" to the O.A. dated 18.2.2016, if the same is still pending consideration.

5. Therefore, without entering into the merits of the case, I dispose of this O.A. by directing the respondent No. 4 stated to have been made on 18.2.2016 and if it is still pending consideration then consider the rules and regulations in force and more particularly when the juniors to the applicants were recruited through RRB in a later point of time and getting higher pay scale and dispose the same within a period of two months from the date of receipt of this order.

6. Though I have not expressed any opinion on the merits of the case, still then I make it clear that after such consideration if it is found that the applicant is entitled for fixation of his pay upon promotion with one increment w.e.f. 18.9.2009 in the lower grade with DNI on 1st July, 2010 as per extant rules then the same benefits may be extended to him within a period of three months along with consequential benefits.

7. With the aforesaid observation and direction, this O.A. stands disposed of at the admission stage itself.

8. As prayed by Mr. Das, Ld. Counsel a copy of this order along with paper book be transmitted to respondent No. 4 by speed post for which he will deposit



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the cost with the Registry by 1.5.2018 and a free copy of this order be handed over to Ld. Counsel for the respondents, who is present and heard in Court.


(A.K. Patnaik)
Judicial Member

SP