

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1771 of 2003

New Delhi, this the 20th day of July, 2004

HON'BLE MR.V.K. MAJOTRA, VICE CHAIRMAN (A)  
HON'BLE MR.KULDIP SINGH, MEMBER (JUDL)

Tirath Ram  
S/o Shri Gouri Shankar  
Group-C  
House No.27, Phase-1A,  
Shiv Shankar Road,  
Om Vihar,  
Delhi-110 059.

..Applicant

By Advocate: Shri S.N. Anand.

Versus

1. The General Manager,  
Northern Railway,  
Baroda House,  
K.G. Marg,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
New Delhi.
3. The Divisional Personnel Officer,  
O/o Divisional Railway Manager,  
Northern Railway,  
New Delhi. ..Respondents

(By Advocate: Shri A.K. Shukla)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member (Judl)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 claiming following reliefs:-

(a) Quash and set aside impugned order dated 14.5.2003;

(b) Direct respondents to grant benefit of one stagnation increment admissible to him after 1.8.1994 and fix pay in the revised pay as on 1.1.1996 accordingly and pay arrears to him;

*[Signature]*

(c) Direct respondents to grant benefit of two ACPs w.e.f. 9.8.99 with arrears of pay and allowances;

(d) Direct respondents to revise applicant's retiral benefits consequent upon such re-fixation of pay and grant of two ACPs; and

(e) Direct respondents to pay interest at the rate of 18% p.a. for delayed release of arrears/revised pensionary benefits pursuant to aforesaid re-fixation of pay.

2. The applicant has impugned Annexure A-I dated 4.5.2003 vide which his representation dated 8.4.2003 has been turned down.

3. Facts in brief are that the applicant claims that he entered into Government service as Pointsman w.e.f. 15.7.1966 and thereafter he was promoted on ad hoc basis as Shuntman in the grade of Rs.210-270. On 17.11.1982 the applicant met with an accident and consequent upon that he was medically decategorised and was absorbed as a Courier on a lesser pay scale than admissible to the grade of Pointsman.

4. It is further pointed out that on implementation of 4th Pay Commission the pay of the applicant was fixed in the pay scale of Rs.825-1200 with basic pay of Rs.1020/- as on 1.1.1986.

5. It is further stated that as per respondents circular dated 20.11.19997 one stagnation increment was admissible to all Railway employees who were stagnating

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at the maximum of their pay scale for more than a year as on 1.1.1986. However, benefit of one stagnation increment has been denied to the applicant leading to recurring financial loss.

6. The applicant has also been denied the benefit of 2 ACPs while fell due to him on 9.8.95. Thus it is prayed that the applicant is entitled to the reliefs claimed by him in the OA.

7. The respondents are contesting the OA. Respondents in their reply pleaded that the applicant has suppressed certain material facts and he has not come to court with clean hands. Respondents pointed out that applicant initially joined the service on the post of PW Khalasi and not as Pointsman. He joined as PW Khalasi on 15.7.66 in the grade of Rs.70-85/196-232. Later on he was promoted as Pointsman in the grade of Rs.200-250 w.e.f. 1.2.1974 and he was further promoted as Shuntman in the grade of Rs.210-270 w.e.f. 22.3.1979 and on 1.8.1982 his pay was fixed in the post of Shuntman in the grade of Rs.260-400. Thus it is stated that the applicant in his career has got two promotions so he is not entitled to any promotion under ACP Scheme.

8. It is further submitted that the applicant was medically decategorised and was recommended only for light duty where full use of all fingers of right hand is not required. The Railway administration realising that he was medically decategorised and recommended for light duty, he was called for suitability for the post of Courier in the Grade of Rs.210-270 by the Committee of Officers, which he had accepted so now he cannot challenge the same.

9. It is further stated that on implementation of

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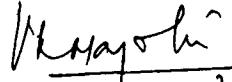
the 5th Pay Commission the pay of the applicant was revised as per rules so it is stated that the OA be dismissed.

10. We have heard the learned counsel for the parties and gone through the records of the case.

11. The learned counsel appearing for the applicant fairly conceded that his client has not given full information that the applicant was appointed as PW Khalasi and the counsel for the applicant was unable to controvert the facts as stated by the respondents that the applicant was earlier appointed as PW Khalasi and was later on given two promotions first as Pointsman and then as Shuntsman. Therefore, on this score the applicant is not entitled for any benefit under the ACP SCHEME and thus only after getting these two promotions the applicant was medically decategorised and was given alternate job though it was slightly on a lower scale. Since the applicant had accepted so now he cannot challenge the same.

12. Thus we find that none of the grounds for claiming relief is available to the applicant as such the OA is devoid of any merits and the same is dismissed. No costs.

  
(KULDIP SINGH )  
MEMBER(JUDL)

  
20.7.04  
(V.K. MAJOTRA)  
VICE CHAIRMAN (A)

/Rakesh