



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Decision delivered on: 14.02.2022

+

W.P.(C) 13654/2021**RK RASTOGI**

.....Petitioner

Through: Mr U Srivastava, Mr Sourabh Sharma
& Mr Anoop Kumar, Advs.*versus***UNION OF INDIA AND OTHERS**

..... Respondents

Through: Mr. Jagjit Singh, Sr Standing Counsel
for Railways with Mr Preet Singh and
Mr Vipin Choudhary, Advs.**CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE TALWANT SINGH****RAJIV SHAKDHER, J.(ORAL):**

1. Issue notice.
- 1.1. Mr Jagjit Singh accepts service on behalf of the respondents/Railways.
2. With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.
3. The writ petition is directed against the order dated 11.02.2021, passed by the Central Administrative Tribunal [in short "the Tribunal"] in O.A. No. 149/2021.
- 3.1. It is not in dispute that the petitioner had approached the Tribunal for pay fixation, and, in this context, had laid challenge to the orders dated 08.05.2018 and 05.10.2020.



3.2. A perusal of the impugned order would show that the Tribunal has, broadly, adverted to the various OAs that the petitioner has filed from time to time to agitate his rights, which included the challenge to the order of dismissal and seeking payment of back wages and consequential benefits.

3.3. It is also not in dispute that the petitioner succeeded in his legal battle for reinstatement and has also received 50% of the back wages payable to him. The more recent legal battle that the petitioner initiated concerned pay fixation.

4. The petitioner's request for pay fixation was declined by the respondents *via* the impugned orders referred to hereinabove, on the ground that he had not exercised the option in that behalf, within 1 month from the date of issuance of the order of promotion i.e., 28.10.2002. The Tribunal, however, in the impugned order, has not dealt with the contentions raised by the petitioner. In fact, the Tribunal, we are told, dismissed the petitioner's O.A. i.e., O.A. No. 149/2021 at the admission stage itself, with the following observations:-

“Coming to the present OA, the first order challenged in the one, in which the applicant was informed about the factum of the claim for MACP being under consideration. The second order is the one in which the MACP was granted. For any person with the complicated record as that of the applicant, the things would have been serious. More and more the respondents tried to satisfy and pacify the applicant, he is emerging as a source of nuisance for the entire department. We would have imposed heavy costs in this OA, but for the polite attitude exhibited by the learned counsel. We dismiss the OA with a serious warning that if the applicant continues with the same trend, heavy costs will be imposed, apart from directing initiation of other steps that are available in law. We make it clear that it shall be open to the respondents to take



action, if he continues his irresponsible acts. The Head of Department shall keep watch on the applicant”.

4.1. In our view, this is not a satisfactory disposal of the O.A. preferred by the petitioner. More importantly, the fact that the petitioner approached the Tribunal time and again to agitate his legal rights cannot be allowed to work to his disadvantage.

5. Accordingly, the impugned order is set aside. The matter is remitted to the Tribunal, for a fresh hearing in the petitioner’s O.A. i.e., O.A. No. 149/2021.

6. Needless to add, nothing stated hereinabove will impact the merits of the case.

7. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J.

TALWANT SINGH, J.

FEBRUARY 14, 2022/nk

Click here to check corrigendum, if any