



2024:DHC:9291-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 15950/2022**

GOVIND SARAN SHARMAPetitioner

Through: **Dr. Ashwani Bhardwaj, Adv.**

versus

**GENERAL MANAGER, NORTHERN
RAILWAYS AND ANR**

.....Respondents

Through: **Ms. Monika Arora, CGSC with
Mr. Gokul Sharma, GP with Mr.
Subhrodeep Saha and Ms. Radhika
Kurdukar, Advs.**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT (ORAL)

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29.11.2024

C. HARI SHANKAR, J.

1. This writ petition under Article 226 of the Constitution of India assails judgment dated 4 January 2022 passed by the learned Central Administrative Tribunal¹ in OA No. 864/2015.

2. Though we are inclined to remit this matter to the Tribunal for a fresh consideration for the reasons that would follow, a brief illusion to the facts may be of advantage.

¹ "the Tribunal" hereinafter



3. The petitioner joined service with the Northern Railways in 1954 and retired on 31 December 1992. He contended that, consequent on the promotion of the Assistant Superintendent, Drawing Office (Mechanical) on 1 December 1998, he was directed to shoulder additional responsibility of the said post, which he continued to do till 31 March 1991. According to the petitioner, he was again given additional responsibility of the post of Superintendent on 1 April 1991, consequent on the superannuation of the person holding the post, and continued to discharge the said additional responsibility till his own retirement on 31 December 1992.

4. During this period, the petitioner contended that recommendations had also been made for his own promotion to the post of Assistant Superintendent and Superintendent, which were not effectuated.

5. The petitioner, therefore, moved the Tribunal by way of OA 86/2001, which was disposed of by the Tribunal by order dated 15 March 2002 with a direction to the respondents to reconsider the case of the petitioner for grant of additional allowance for having shouldered additional responsibilities of the posts of Assistant Superintendent and Superintendent. The petitioner also addressed a representation to the respondent on 31 October 2013, followed by further representations on 7 March 2014 and 1 May 2014.

6. On these representations remaining unanswered, the petitioner filed OA 864/2015 before the Tribunal with the following prayers:



“A. To direct the respondents for granting the allowances to the Applicant for the period of 01.12.1988 to 31.03.1991 during which the Applicant has shouldered the higher responsibility for the post of Assistant Superintendent.

B. To direct the Respondents to consider the Applicant for promotion as Assistant Superintendent grade with effect from 01.12.1988 and superintendent grade with effect from 4.4.1991 and accordingly calculate and pay the pension to the Applicant.

C. To direct the Respondents to properly fix the pay and consequently revise the pension of the Applicant and also pay the arrears after revising the pension.

D. To pass any other appropriate order as the Hon'ble Tribunal may deem fit and proper while keeping in view the facts of the instant case.”

7. The respondents, in their counter affidavit, stated that, consequent to the directions issued by the Tribunal in its order dated 15 March 2002 in OA 86/2001, the respondents had considered the case of the petitioner and passed an appropriate order. It was stated that the petitioner had been granted additional 10% allowance of his basic pay for the period 1 April 1991 to 31 December 1992, but no additional remuneration was granted to the petitioner for the period 1 December 1988 to 31 March 1991, as he was not ordered to look after the additional work of Assistant Superintendent as he sought to contend.

8. By the impugned order dated 4 January 2022, the Tribunal has dismissed the petitioner's OA 864/2015. The reasoning of the Tribunal — if one may call it that — is contained in the following paragraphs from the said decision:

“7. This is the second round of litigation. The applicant retired



way back in the year 1992. By filing this OA he is seeking the same relief as he sought in his earlier OA No. 86/2001. The same was disposed of by the Tribunal through its order dated 15.03.2002 directing the respondents to re-consider his case for grant of allowance as admissible to him for shouldering the additional duties in addition to his own duties and responsibilities. In response to the directions issued by the Tribunal on 15.03.2002, the respondents have now passed an order dated 04.02.2014. The same read as under:-

“In reference to your representation dated 07.12.2013, it is already replied vide this office letter of even number dated 20.11.2013 that:-

Para 1. In compliance of the judgment of Hon'ble CAT dated 15.03.2002 the 10% allowance of your basic pay w.e.f. 01.04.1991 to 31.12.1992 have been granted vide this office Notice No. 42E/96/EI/IIA 31.03.1991 was not considered by the Mechanical Department for granting the dual allowance as already been informed to you vide this office letter dated 15.12.1999.

Para 2. The promotion to the post of Asstt. Supdt was admissible to the employees on passing the requisite selection as per vacancy position, Roster Register and seniority. The claim of promotion has already been rejected by the Hon'ble CAT in their judgment dated 15.03.2002.

Para 3. In terms of instructions contained in Railway Board's letter No. F (E) III/2008/PN/1/12 dated 18.03.2010 and PS No. 14027/2013 (Photo copies enclosed) your pension have been revised correctly vide PPO NO. 0192010201.”

8. *It is evident from the perusal of the order dated 04.02.2014 passed by the respondents, that the same has been passed in terms of directions of this Tribunal vide its order dated 15.03.2020 OA No. 86/2001. The representation of the applicant dated 07.12.2013 has been duly replied by the respondents through its letter No. 20.11.2013. The applicant has been granted 10% allowance of his basic pay w.e.f. 01.04.1991 to 31.12.1992. The earlier period w.e.f. 01.12.1988 to 31.03.1991 was not taken into consideration by the Mechanical department for granting allowance to the applicant, and the same had also been intimated to the applicant by a letter dated 15.12.1999.*

9. *When such is the state of affairs, we are of the view that the*



been complied with and representation made by the applicant has also been considered and duly replied to. The respondents have also passed order dated 04.02.2014 granting the applicant 10% of his basic pay as allowance for shouldering additional responsibilities. Therefore, we do not find any illegality or infirmity in the impugned order dated 04.02.2014, and also in the stand taken by the respondents.

10. Accordingly, the OA being devoid of merit There shall be no order as to costs.”

9. The petitioner, thereafter, filed RA 35/2022, seeking review of the aforesaid judgment dated 4 January 2022. By order dated 4 May 2022, the review application was also dismissed by the Tribunal.

10. It is apparent, from a bare reading of the impugned order, that the Tribunal has not applied its mind to the prayers of the petitioner or returned any findings on the merits of the petitioner’s claims. It is strange that the Tribunal has taken the view that nothing survives for consideration in view of the disposal, by the respondents, of the petitioner’s representations. If disposal of a representation were to conclude the *lis* between the parties, the entire purpose of setting up of the Tribunal would be defeated.

11. Rather, we are constrained to observe that, in most cases in which the case is disposed of with a direction to the respondent to decide the applicant’s, or petitioner’s representation, the outcome is near invariably negative. One wonders whether any purpose at all is served by issuing directions for deciding representations, except multiplying of litigation. While one does not intend to encroach on the discretion of the Tribunal, or its learned Members, who are



persons of experience and aptitude, we merely pen a suggestion as to whether, in cases where the issues in controversy, and the rival stands, are clear, and the applicant has approached the Tribunal after waiting for the statutorily prescribed period of six months after the representation was submitted, it would not be better to dispose of the matter on merits, rather than relegate the dispute to the department to consider the applicant's representation.

12. Dr. Bhardwaj, learned Counsel for the petitioner, further points out that the Tribunal has erred in taking into consideration the prayers contained in the original OA filed by the petitioner, of which the petitioner had sought amendment, which was allowed.

13. The amended prayer clause reads thus:

“8. Relief Sought:

I) In view of the above facts and grounds the Applicant prays that the Hon'ble Tribunal may be pleased.

A. To direct the respondents for granting the allowances to the Applicant for the period of 01.12.1988 to 31.03.1991 during which the Applicant has shouldered the higher responsibility for the post of Assistant Superintendent.

B. To direct the Respondents to consider the Applicant for promotion as Assistant Superintendent grade with effect from 01.12.1988 and superintendent grade with effect from 1.4.1991 and accordingly calculate and pay the pension to the Applicant.

C. To direct the Respondents to properly fix the pay and consequently revise the pension of the Applicant and also pay the arrears after revising the pension.

D. TO QUASH the order dt.04.02.2014 and TO DIRECT the respondents to grant the pension and pensionary benefits to the applicant in the pay scale of Rs.5000- 8000, i.e., the pay scale of



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the Head clerk, the post on which, he got retired, with all consequential benefits and Pass any other or further order, which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

14. We find from the record that Dr. Bhardwaj is correct and that the Tribunal has not taken into account the amended prayer clause.

15. In that view of the matter, though we feel discomfort in remanding case after case to the Tribunal, we are left with no option, as the Tribunal has not even noted the prayers in the OA correctly in the impugned judgment.

16. Accordingly, the impugned judgment dated 4 January 2022 is quashed and set aside. OA 864/2022 is remitted to the Tribunal for decision afresh. Both sides are directed to appear before the Tribunal on 13 December 2024.

17. As the dispute between the parties has been pending since long, we request the Tribunal to decide it as expeditiously as possible and without granting any unnecessary adjournment to the parties.

18. The petition stands allowed to the aforesaid extent.

C.HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

NOVEMBER 29, 2024/p/ar

[Click here to check corrigendum, if any](#)