
(2010) 01 DEL CK 0253

In the Delhi High Court

Case No : Writ Petition (C.) No. 6048 of 2008

R.P. Arora

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-01-2010

Acts Referred:

Citation : (2010) 01 DEL CK 0253

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : H.K. Chaturvedi, for the Appellant; Geetanjali Mohan, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has challenged the order dated 9th July, 2007 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A No. 2088/2006 titled R.P. Arora v. Union of India through General Manager, North Western Railway, Jaipur and Ors. dismissing his petition seeking quashing of order dated 29th May, 2006 and declining the prayer of the petitioner for refixing his pay and pensionary benefits with effect from 11th January, 1988 by way of step up at par with his juniors with all consequential benefits as per Railway Boards circular dated 16th October, 1964.

2. The petitioner claims step up of his pay at par with his juniors on the ground that Western Railway communication dated 14th July, 1954 had contemplated that instructors deputed to Ajmer and Udaipur Training Schools retain a lien in their parent categories and as such he could not be promoted on account of being on deputation whereas his juniors were given ad-hoc promotion.

3. The respondents had opposed the plea of the petitioner on the ground that petitioner's name was on the panel dated 18th January, 1988 along with other employees including his juniors and he was promoted to pay scale of Rs. 700-800/- vide order dated 25th January, 1988. The application was resisted on

the ground that it is barred by limitation as his representation had already been replied in the year 1999 to claim setup of his pay at par with his juniors. While replying to petitioner's representations it was categorically stated that his juniors were not promoted to the revised pay scale of Rs. 2000-3200/- but were promoted along with the petitioner by order dated 25th January, 1988 on regular basis. It was also asserted that the juniors to the petitioner were promoted on adhoc basis in 1985 to the pay scale of Rs. 1600-2660/-, however, on account of adhoc promotion given to the juniors earlier, the same could not be given to the petitioner.

4. The Tribunal after considering the pleas and contentions have noted that in terms of circular dated 16th October, 1964, if there is an administrative error on account of which any promotion is lost, then an employee would not suffer on account of seniority as well as pay, however, the petitioner cannot contend that not granting adhoc promotion is on account of any administrative error as the petitioner was on deputation to another organization and could not be granted ad-hoc promotion required for administrative exigencies.

5. The Tribunal has relied on the judgment of the Supreme Court in the case of Union of India and another Vs. R. Swaminathan, where considering FR 22(1) and also the O.M. dated 4th November, 1993 detailing the instances where the stepping up of pay cannot be done. The Supreme Court had held as under:

The memorandum makes it clear that in such instances of junior drawing more pay than his senior will not constitute an anomaly and, therefore, stepping up of pay will not be admissible. The increased pay drawn by a junior because of ad hoc officiating or regular service rendered by him in the higher post for periods earlier than the senior is not an anomaly because pay does not depend on seniority alone nor is seniority alone a criterion for stepping up of pay.

The aggrieved employees have contended with some justification that local officiating promotions within a Circle have resulted in their being deprived of a chance to officiate in the higher post, if such chance of officiation arises in a different Circle. They have submitted that since there is an All India seniority for regular promotions, this All India seniority must prevail even while making local officiating appointments within any Circle. The question is basically of administrative exigency and the difficulty that the administration may face if even short-term vacancies have to be filled on the basis of All India seniority by calling a person who may be stationed in a different Circle in a region remote from the region where the vacancy arises, and that too for a short duration. This is essentially a matter of administrative policy. But the only justification for local promotions is their short duration. If such vacancy is of a long duration there is no administrative reason for not following the all India seniority. Most of the grievances of the employees will be met if proper norms are laid down for making local officiating promotions. One thing, however, is clear. Neither the seniority nor the regular promotion of these employees is affected by such officiating local arrangements. The employees who have not officiated in the

higher post earlier, however, will not get the benefit of the Provision to Fundamental Rule 22.

6. The petitioner therefore, cannot claim stepping up of his pay at par with his juniors who had been given ad-hoc promotions when the petitioner was on deputation and therefore, he could not be given ad-hoc promotions which were given to some of the juniors of the petitioner.

7. The petitioner also cannot claim ad-hoc promotion after a considerable gap of time. In fact the petitioner had not made a grievance for not granting the adhoc promotion nor had claimed notional ad-hoc promotion, which could not be granted to him, but had only sought step up of pay in consonance with the pay of his juniors, which was higher than that of the petitioner on account of adhoc promotion given to some of the juniors. The adhoc promotions in any case could not be given to the petitioner because he was working in a different department on deputation and could not have been considered for such ad-hoc promotion.

8. In the circumstances, there are no grounds to step up the pay of the petitioner considering the pay of his juniors who had been given ad-hoc promotions. There are no grounds to interfere with the decision of the Central Administrative Tribunal, Principal Bench in the facts and circumstances and the writ petition is, therefore, dismissed.