



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 4192/2015

M.A. No. 3698/2016

M.A. No. 3810/2015

New Delhi, this the 2nd day of March, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

D.N. Gandhi,
Posted as Chief Communication Engineer,
Northern Railway, New Delhi
Resident of 21-H, Shivalik Apartments,
Plot No.32, Sector-6, Dwarka,
New Delhi-110075.

.. Applicant

(By Advocate: None)

Versus

1. Union of India,
Through Secretary,
Ministry of Railways,
(Railway Board),
Rail Bhawan, Raisina Road,
New Delhi-110001.
2. Union of India,
Through Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.

.. Respondent

(By Advocate : Shri Subodh Kaushik for
Shri V.S.R. Krishna)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicant was an officer of 1981 batch of IRSSE. He was promoted to the Senior Administrative Grade through order dated 13.06.2003. Few of his juniors, by name E.S. Vinod Kumar and Shri Upender Sethy were also promoted on the same date. While his juniors joined the promotional post in June 2003 itself, he joined the post only on 06.08.2003, because the administration did not relieve him. The juniors of the applicant were drawing higher pay than what the applicant was drawing. Therefore, he went on making representations for stepping up of his pay, to be on par with that of his juniors. Through an order dated 20.04.2015, the respondents rejected the claim of the applicant. It was mentioned that while his juniors got the benefit of next increment after promotion in the month of June itself, the applicant got the increment at a later stage; and that the discrepancy got further widened on implementation of the recommendations of



the VI Central Pay Commission. Feeling aggrieved by the same, the applicant filed this O.A.

2. He contends that the delay in his joining the promotional post of SA Grade was on account of the reluctance on the part of the administration to relieve him and it cannot constitute the basis to deny him the stepping up of pay. He contends that the record clearly discloses that it is only due to various steps taken by the administration that his joining to the promotional post was delayed, and he cannot be penalized for the same.

3. Respondents filed a detailed counter affidavit. They did not dispute that the applicant and his juniors were promoted through an order dated 13.06.2003. It is also admitted that the delayed joining of the applicant was on account of the reluctance on the part of the administration to relieve him in the lower post. However, they rely upon the Railway Board's letter dated 07.12.1994, to deny him, the pay parity.



4. There is no representation for the applicant. We heard Shri Subodh Kaushik, proxy for Shri V.S.R. Krishna, learned counsel for the respondents.

5. The facts are borne out by the record. The applicant and his two juniors were promoted to the Senior Administrative Grade, on 13.06.2003. This is not a case in which the employee himself delayed the joining of the post. In the impugned order itself, it was mentioned that the delay in the case of the applicant was due to the administrative reasons. The order reads as under:

“The matter of Shri D.N. Gandhi, CCE/SCR regarding stepping up of pay at par with his juniors Shri Upendra Sethy, CSTE/Plg/SCR and Shri E.S. Vinod Kumar, CSTE/Works/S C Railway was referred to this office for further clarification.

2. Shri Gandhi, a 1981 batch of IRSSE, was promoted to SA Grade vide Board's order No. E (O) III-2003/PM/43 dt. 13.06.2006 alongwith his junior Shri E.S. Vinod Kumar and Shri Upender Sethy. On promotion, Shri Vinod Kumar and Shri Sethy had joined their promotional posts immediately i.e. in June, 2003 whereas Shri Gandhi could not be relieved in time due to administrative reasons and joined the promotional post later than the juniors only on 07/08/2003. Thus, the juniors of Shri Gandhi



were getting their annual increment in month of June whereas Shri Gandhi was getting annual increment in month of August in the 5th CPC.

3. On implementation of 6th CPC, the juniors Shri Vinod Kumar and Shri Sethy got one additional increment as a one time measure whereas Shri Gandhi could not get any additional increment as his annual increment was in August 2006. Shri Gandhi requested for stepping up of pay at par with his juniors.

4. The matter has been examined in consultation with the Associate Finance of Ministry of Railways and the DOP&T, the nodal department of Government of India on service matters as to whether stepping up of pay may be granted in cases where the officer could not be relieved in time due to administrative reasons and joins the promotional post later than the junior. DOP&T has clarified that no stepping up of pay is allowed in such cases. Therefore, the request of Shri Gandhi for stepping up of pay at par with his juniors can not be granted.

5. The officer may be informed accordingly.”

Nowhere it was mentioned that the delay was attributable to the applicant in any manner.

6. The reasons attributable to the delayed joining of the delay on promotional post are further elaborated in para 2 of the counter affidavit, which reads as under:

“2. Vide Railway Board’s Order No. E(O) III-TR/266 dated 13.06.2003 orders were issued for promotion of 1981 Batch IRSSE officer to Senior Administrative Grade (SAG) which included the applicant and his juniors also. In terms of the said orders the applicant was transferred



to South Eastern Railway and appointed to officiate in SA Grade in the cadre. Northern Railway, vide their Notice dated 21.07.2003 issued order to relieve him to carry out transfer & Promotion to S.E. Railway. Subsequently, Railway Board modified its earlier orders vide Order No.E(O)III-2003/PM/43 dated 29.07.2003 vide which he was transferred to NE Railway and posted in the cadre. After getting relieved from Northern Railway, Shri Gandhi took over the charge of the post of Chief Signal Engineer, North Eastern Railway, Gorakhpur in SA Grade on 06.08.2003. his promotion to SAG became effective from 06.08.2003 and pay was accordingly fixed in SAG w.e.f. 06.08.2003 with the date of annual increment as 1st August. ”

7. From a perusal of this, it becomes clear that initially the applicant was transferred to South Eastern Railway to officiate against the Senior Administrative Grade cadre through an order dated 21.07.2003. Even before the applicant could join at that place, the Railway Board modified it through another order dated 29.07.2003, transferring the applicant to North Eastern Railway. Soon after getting relieved in the Northern Railway, the applicant took over charge in the North Eastern Railway on 06.08.2003. Not a single day of the delayed joining of the duty is referable to the acts or omissions, on the part of the applicant. Till he was relieved, he was discharging the duty as required by the administration. Therefore, it is one of the fittest cases



for stepping up of the pay of a senior, to be on par with that of his juniors.

8. The respondents made reference to the Railway Board's letter dated 07.12.1994, which is to the effect

“if a senior joins the higher post later than the junior, for whatsoever reasons, whereby he draws less pay than the junior, in such cases senior cannot claim stepping up of pay at par with the junior”.

9. This, naturally would apply to the cases where the senior chooses to join the promotional post, long after his juniors joined. In the instant case, the respondents have fairly admitted that it is they, who are responsible for the delayed joining of the applicant in the promotional post.

10. The applicant retired from service long back. We are of the view that the relief can be limited only in the form of revision of his pension, with arrears thereof, and denying the arrears of pay upto the date of retirement.

11. We, therefore, allow the O.A. directing that the last pay drawn by the applicant shall be stepped up, to



be on par with that of his juniors by name, Shri E.S. Vinod Kumar and Shri Upender Sethy; and that his pension shall be revised accordingly. The applicant shall be entitled to get the arrears of difference of pension. The exercise in this behalf shall be completed within two months from the date of receipt of certified copy of this order. If the exercise is completed within the stipulated time, the amount shall not carry any interest and default, if any, shall carry interest on arrears, at the GPF rate. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/jyoti/