

Central Administrative Tribunal  
Principal Bench

OA No.2958/2001

New Delhi, This the 14<sup>th</sup> day of May, 2002.

Hon'ble Shri Govindan S. Tampi, Member (A)

Bhim Sain  
S/o Shri Tara Chand Mehta  
874-A, DDA Colony  
Chowkchandi  
Tilak Nagar  
New Delhi.

.... Applicant

(By Shri G.D.Bhandari, Advocate)

VERSUS

Union of India: Through

1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
State Entry Road  
New Delhi.
3. The Divisional Railway Manager  
Northern Railway  
Ambala.

... Respondents.

(By Shri V.S.R.Krishna, Advocate)

O R D E R

By Hon'ble Govindan S.Tampi, Member (A)

Recomputation of pensionary benefits, of the treating him as having been restored to the post of Driver 'A' w.e.f. 29.3.87 in the grade of Rs. 1600-2660/- with 75% as running allowance, with interest at the present rate is the relief prayed for in this OA.

2. Heard S/Shri G.D.Bhandari and V.S.R Krishna, learned counsel for the applicant and the respondents respectively.

3. The applicant who joined Northern Railway on 10.12.48, rose to the rank of Driver 'A' grade. On 17.1.83, the train he was driving overshot the starter signal. No casualties or damage occurred but he was chargesheeted on 30.6.83. Accepting the Inquiry Report, he was penalised by reduction in rank to that of Shunter 'B' in the grade of Rs. 290-400/- (Rs. 1200-2040/-) by three stages. Appeal against the punishment was rejected as being time barred. The OA filed by him in the Tribunal Allahabad Bench, was disposed of on 25.3.87, with directions that his period of punishment be reviewed so as to expire on a date prior to his retirement and that the punishment be deemed to have ended on 30.3.87. Though by the punishment he was reduced to the stage of Shunter 'B', he was to be restored to the stage of Driver 'A' which he was holding on the date of his punishment, with all benefits. Respondents, however, restored him only to the status of Driver 'B' in the grade of Rs. 1350-2200/- His subsequent OA No. 1117/89 was disposed of on 3.5.91 by the Principal Bench with the directions that he be restored to the grade of Driver 'A' with all the attendant benefits. This also included running allowance worked out at 75%. Respondents did not adhere to the directions of the Tribunal decisions, but drew his pensionary benefits as if he retired as Shunter 'B' and not Driver 'A'. This has led to a lot of inconvenience and difficulties to him, which led to this OA.

4. Grounds raised in the OA stoutly reiterates by Shri G.D.Bhandari, learned counsel for the applicant are that :-



(i) the Tribunal's orders dated 25.3.87 and 3.5.91 have not been given effect to;

ii) he had not been restored even to the grade of Driver 'B';

iii) 75% running allowance was not added while computing pensionary benefits;

iv) while recomputing his pension following 5th Pay Commission's revision, he should be deemed to have restored as Driver 'A' w.e.f. 28.3.87 ;

v) denial of his rightful dues has cost him a lot ;

vi) there has been hostile discrimination in his case ;

vii) PPO issued to him had been with penal consequences;

viii) applicant's representations had not been heeded to ;

ix) denial of retiral benefits had been in violation of the principles of natural justice, as well as constitutional guarantees.

5. No reply has been filed by the respondents but during oral submissions, it was pointed out by Shri V.S.R.Krishna, learned counsel

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for the Railways that the OA is woefully time barred and delayed, having been filed on 25.10.01, for the alleged fixation of pension in 92. No specific order has been assailed and as such the OA is vague and misconceived, without any specific grievance. Pension Payment Order of 92 is being sought to be assailed in October, 2001. If the applicant was genuinely concerned, he should have come up much earlier. Not having come up early he has no cause and the OA has to fail.

6. I have carefully considered the case. Preliminary objections raised by the respondents cannot be accepted as pension and pensionary benefit, constitute a continuous cause of action and as such the ratio of the Hon'ble Apex Court decision in M.R.Gupta Vs. UOI (1995 (5) SCALE 29) would help the applicant as far as the OA is concerned. Evidently, the applicant has an arguable case. His period of reduction having been fixed on a date prior to his date of superannuation - 28.3.87 - by Tribunal, Allahabad Bench decision on 25.3.87 and his having been ordered to be restored to the stage of Driver 'A' on the date of his retirement by Tribunal Principal Bench order dated 3.5.91, in OA 1117/89, the said benefit should have been extended to him, with attendant results. PP Order is found to have been issued in October, 1992, though an endorsement is made therein in manuscript on 4.8.2000, which is not even signed. Still as the applicant is a retiree, and his pensionary benefits have been

b2

reduced, his case merits re-consideration, but the respondents have to be given an opportunity to examine the issue from their side also.

7. In the above view of the matter I dispose of the OA with direction to the applicant to file a detailed representation to the respondents explaining his case with due reference to the position in law as well as the decision of Allahabad and Principal Bench of the Tribunal. Respondents shall within one month from such receipt, examine, the representation take a decision and communicate the same to the applicant. Needless to say the applicant will have a right to come to the Tribunal if he is still aggrieved.

No costs.

(Govindan S. Tampi)  
Member (A)

/shyam/

Administrative Tribunal  
Government of India  
Delhi