

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.697/98

New Delhi this the 14th day of December, 2000

(20)

Hon'ble Shri V.K. Majotra, Member (A)  
Hon'ble Shri Shanker Raju, Member (J)

Shri Yamuna Acharya  
S/o Late Shri Ramana Acharya,  
R/o H6/10, Malviya Nagar,  
New Delhi-110 017.

-Applicant

(By Advocate: Shri K.K. Patel)

Versus

1. Union of India  
through the General Manager,  
Central Railway,  
Bombay.
2. Divisional Railway Manager,  
Central Railway,  
Jhansi.
3. Senior Divisional Engineer,  
(North) Central Railway,  
Jhansi.

-Respondents

(By Advocate: Shri R.K. Shukla proxy for  
Mrs. B. Sunita Rao)

ORDER (Oral)

Shri V.K. Majotra, Member (A)

The applicant is aggrieved by in-action of the respondents for not stepping up his pay in relation to the pay drawn by his junior Shri O.P. Chawla, I.O.W. (E) Jhansi who was promoted to I.O.W. grade I in the scale of Rs. 2000-3200 on ad hoc basis w.e.f. 5.6.1982 and has been drawing higher salary than the applicant. The applicant retired from service on 31.3.95. He is further aggrieved that the respondents have not commuted his pension on the basis of his stepped up pay. The applicant was promoted in Grade-I scale of Rs. 2000-3200 as I.O.W and posted at Mathura on 31.3.1986. Finally, he was promoted as Chief I.O.W., at Mathura in the grade of Rs. 2375-3200 in November, 1994 in which grade he continued

till his superannuation. The applicant made a representation regarding his grievance for stepping up of his pay on 11.2.1994 followed by another representation on 14.3.1995. According to the applicant, the respondents vide their order dated 21.9.94 (Annexure-3) had informed the Assistant Engineer Mathura Junction that "the revision of seniority position of Shri Yamuna Acharya's is being taken. The withhold increment during the period August 1994 in regular pay have been ordered vide letter and action is being taken for payment of arrears. But thereafter they did not follow up by passing the relevant order of step up and payment of arrears". The applicant has sought step up of his pay on par with his junior w.e.f. 5.6.82 and a direction to the respondents to pay him the consequential benefits and compute his pension on the basis of the stepped up pay.

2. The respondents in their counter have contended that the benefit of stepping up of pay of Seniors with reference to their juniors was allowed as per Railway Board's letter dated 5.10.1976. The said letter was superseded by Railway Board's letter dated 7.8.90 (Annexure R-I) whereby the benefit of stepping up of pay of seniors with reference to that of juniors was withdrawn.

3. The respondents have taken the objection that this Bench of the Tribunal does not have jurisdiction in the matter. They have also stated that the cause of action had arisen in the matter on 5.6.82 and the application made <sup>after an inordinate delay</sup> ~~by -~~ <sup>h</sup> his representation on 14.3.95. Thus, the OA is hopelessly barred by limitation.

4. We have heard the learned counsel of both sides and carefully considered the material on record.

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5. The learned counsel of the applicant stated that after his retirement on 31.3.95, the applicant was temporarily staying at the Delhi address given by him in the OA. Later on, he shifted back to his permanent address in Mathura. In view of the fact that the applicant had been temporarily staying on Delhi address at the time when the OA was moved, the respondents' objection regarding territorial jurisdiction of this Bench of the Tribunal is rejected..

6. As regards the point of limitation since the matter relates to pay, it is treated to be continuous cause of action. In this view of the matter, the plea of limitation is also rejected.

7. Whereas vide letter dated 5.10.1976 of the Railway Board the benefit of stepping up of pay was available to seniors if their juniors have been promoted to the higher post on ad hoc basis followed by their regular promotion without break, ~~however~~, the 1976 letter was superseded by Railway Board's letter dated 7.8.90 (Annexure R-I) whereby it was ordered that instructions contained in letter dated 5.10.1976 have been withdrawn and "past cases decided prior to issue of Board's letter dated 11.6.1990 need not be re-opened". The letter dated 7.8.1990 of the Railway Board is a policy decision and normally the courts ~~meddle~~ are not supposed to ~~meddle~~ with Government policies. The applicant's junior as per applicant's own contention was promoted on 5.6.1982. The applicant did not raise the issue of stepping up of his pay till 14.3.95. The

instructions which allowed the benefit of stepping up had already been withdrawn before the applicant made a representation in March, 1982

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8. Having regard to the above reasons and discussions, we are unable to find fault with the decision of the respondents in not stepping up the pay of the applicant on par with his junior Shri O.P. Chawla from 5.6.1982. Accordingly the O.A. is dismissed being devoid of merit. No costs.

S. Raju

(Shanker Raju)  
Member (J)

V.K. Majotra

(V.K. Majotra)  
Member (A)

CC.