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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No. 1374/1995  
MA 1154/1996, MA 2289/1996  
MA 2330/1996, MA 2331/1996  
MA 40/1997, MA 1126/1997,  
MA 1127/1997, 1783/1997,  
MA 1684/1997, MA 2315/1997,  
MA 2415/1997, MA 110/1998,  
MA 118/1998, MA 303/1998,  
MA 2161/2003, MA 981/2004,  
MA 982/2004, MA 1061/2004,  
MA 1703/2004, MA 1061/2005,  
MA 728/2010, MA 729/2010 and  
MA 1895/2010

New Delhi this the 23<sup>rd</sup> day of September, 2011

**Hon'ble Smt. Meera Chhibber, Member (J).**  
**Hon'ble Dr. A.K. Mishra, Member (A).**

✓  
Sunder Dass,  
S/o Shri (late) Daulat Ram,  
Aged about 63 years,  
R/o J-57, Hari Nagar,  
New Delhi.  
And Retired as :  
Driver Grade 'C' from  
The Northern Railway,  
Shakurbasti,  
Under D.R.M., N. Delhi.

.. Applicant

(None for the applicant)

Versus

✗  
Union of India  
Through the General Manager,  
Northern Railway,  
Government of India,  
Baroda House,  
New Delhi-110001.

...Respondent

(By Advocate : Shri R.L. Dhawan)

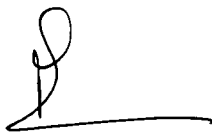


**ORDER****Mrs. Meera Chhibber, Member (J)**

This is an old matter of 1995. None is present for the applicant nor has any request been sent for adjournment. Perusal of the order sheets passed earlier shows that on some of the occasions applicant had sought long adjournment on medical grounds or it was adjourned on request of the applicant. Since all these old matters have been listed for disposal by the Hon'ble Chairman, we do not see any reason as to why this case should be prolonged indefinitely specially when no request has been made for adjournment. It is also relevant to note that on number of occasions earlier, the co-ordinate benches had observed that no further adjournment would be granted as this was an old matter pending since 1995. We are, in these circumstances, proceeding to decide this OA by resorting to Rule 15 (i) of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Applicant has sought the following relief:-

- “(i) To direct the respondents to give promotions to the applicant from due dates and seniority taking into account that the punishment order dated 14<sup>th</sup> January, 1980 was quashed by the Honourable Tribunal vide its order and judgment dated 9<sup>th</sup> August, 1991.
- (ii) To direct the respondents to give him arrears of pay and allowances as well as difference of pay and allowances including increments on the promotional posts which he would have got but for the punishment of the said charge sheet and also bring his pay up to date by releasing the withheld

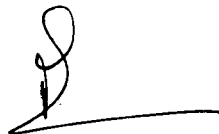


increment as if the order of withholding one increment for one year was never given.

- (iii) Also direct the respondent-Railways to treat the period of suspension followed by punishment, which was quashed by the Honourable Tribunal, as period spent on duty for all practical purposes and all consequential benefits flowing from such period spent on duty may please be directed to be given, followed by retiral benefits calculated on such a relief i.e. promotions, suspension, increased pension, gratuity, increased D.A. (Dearness Allowances) from time to time, difference thereon etc., etc. with 18% interest for all the losses till payment.
- (iv) Award exemplary cost for this application because the applicant has been compelled to come to the Honourable Tribunal, time and again, because the respondent-Railways are making false submissions before this Hon'ble Tribunal on oath and this Honourable Tribunal has failed to take any action against them.
- (v) Pass any other order/orders or direction/directions or grant any other relief/reliefs as deemed fit in the light of the facts and circumstances of the case in favour of the petitioner."

3. It is stated by the applicant that he was appointed as a Loco Cleaner with effect from 6.10.1954. In 1960 he was promoted as Fireman Grade 'C', in 1980 as Fireman Grade 'B', as Diesel Assistant in March 1981 and in August, 1981 he was promoted as Shunter 'B' and was posted at Tuglakabad. In October, 1985, he was promoted as Driver Gr. 'C' at SSB.

4. While he was working as Fireman Grade 'C', he was placed under suspension with effect from 11.7.1975 which was subsequently revoked on 12.1.1976. While under suspension, he was served with charge



sheet dated 5.9.1975 for unauthorized absence from the shed on 10.7.1975. Applicant was imposed punishment of withholding his increment falling due on 11.3.1980 for a period of one year. Being aggrieved, applicant gave his appeal but that was never replied, therefore, he had filed Suit No.55 of 1983 in the court of Senior Sub-Judge Delhi which was transferred to the Tribunal and renumbered as TA 39 of 1986. Vide judgment dated 9.8.1991 the said TA was allowed (page 35). The said order was not complied with, therefore, the applicant had to file CP No. 206 of 1992 in TA No.39/1996 which was disposed of on 19.11.1992 in view of the undertaking given by the respondents that payments would be made to the applicant within 2 weeks. In spite of above undertaking, till date not a single paisa has been given to the applicant. Being aggrieved, applicant gave a representation to the General Manager followed by reminder.

5. It is submitted by the applicant that since the first TA was allowed with all consequential benefits, he is entitled to all the benefits such as seniority, promotion, arrears of difference of pay etc. as if suspension and punishment were never imposed on him. Respondents have committed perjury as no payment was made to the applicant. Ultimately, applicant retired from service on medical grounds in January, 1987 but since he had suffered loss of one increment on account of punishment, therefore, he is entitled for the relief, as claimed by him.



6. Respondents have opposed this OA. They have explained that applicant Ex-Driver was awarded a penalty of withholding of one increment for a period of one year without cumulative effect. However, the said order was quashed by the Tribunal. Thereafter the judgment has been complied with. His pay was refixed vide Office Order dated 26.8.1992 but applicant refused to accept the cheque of Rs. 153/- due to WIT one year and has preferred the present OA. The said cheque has been sent to the applicant by Registered Post, which too was not received by the applicant and has been returned back to the office. They have further stated that it is wrong to state that applicant has lost promotion due to WIT one year. They have explained that the applicant was in fact promoted as DSL Assistant and Shunter before effecting his WIT for one year period. During the said spell of WIT period neither applicant nor any of his juniors were promoted as Driver Goods. They have thus prayed that the OA may be dismissed.

7. In rejoinder applicant has stated that at no point of time respondents gave him cheque of Rs.153/-. It is, therefore, wrong to state that applicant refused to take the cheque. The respondents be put to strict proof with regard to payment of said cheque. He has stated that due to punishment there was considerable delay in the promotion of the applicant from Fireman Grade 'C' to Fireman Grade 'B' and subsequent promotions. Since his punishment was quashed, he was



entitled for promotion as there was nothing which existed against him for non-grant of promotion, arrears etc.

8. Respondents had filed additional affidavit explaining the dates how and when applicant was given his promotions. They have explained as follows:-

"That the applicant was initially appointed as Loco Cleaner on 6.10.1954. He unauthorisedly absented himself from duty from 4.10.1963 to 8.11.1963, 21.3.1965 to 2.9.1968, 6.9.1968 to 9.4.1969, 11.4.1969 to 21.10.1970, 25.11.1970 to 1.2.1971 and 3.7.1971 to 16.7.1971 as such was removed from service on 16.7.1974. Subsequently, the applicant was reinstated and he joined duty on 21.5.1975.

That the applicant was promoted as Fireman 'C' on 1.9.1979. While working as Fireman 'C' the applicant was awarded the penalty of WIT for one year vide letter dated 11.1.1980. The said punishment of WIT for one year was to be commenced from September, 1980 in Grade Rs.210-270 but the applicant was, in the meanwhile, promoted as Fireman 'B' grade Rs. 260-350 on 10.4.1980 before effecting the punishment. As such the punishment was to be effected in the promotional grade of Rs.260-350 w.e.f. 1.4.1981. It is submitted that the applicant was further promoted as Diesel Assistant in Grade of Rs.290-350 on 3.3.1981 before effecting his punishment in grade Rs.260-350 from 1.4.1981. The applicant was again promoted as Shunter in grade Rs.290-400 on 22.8.1981 and his pay was fixed at Rs.302/- before the punishment of WIT for one year could be given effect to. The said punishment of WIT for one year was actually given effect to from 1.8.1982 to 31.7.1983".

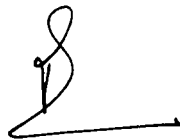
They have thus prayed that the OA as well as MAs may be dismissed.

9. They have also filed detailed statement referring to various applications filed by the applicant and the comments of the respondents which reads as under:-



1154/96 The Applicant claims promotions as Driver 'B' and as Driver 'A'. He has requested that the Respondents may be directed to produce files dealing with promotion of Drivers 'B' and 'A' and entire correspondence/personal file of the Applicant along with files dealing with promotions, payment of pay and allowances, bonus etc.

The Applicant was 21-3-97 given all promotions as due to him. He failed in pre-requisite promotional <sup>Course</sup> for the Goods Driver held from 14-1-83 to 16-3-83. He passed P-17 Course on 17-7-84 and was promoted as Goods Driver on 17-11-85. He was reverted as Shunter vide letter dated 29-1-86 as his working was found most unsatisfactory and accident prone. His Appeal dated 7-2-86 was rejected by ADRM. He remained on sick from 31-1-86 to 28-11-86 and was declared medically unfit for running, passing and crossing tracks vide letter date 7-11-86. He retired from service on 31-1-1987 vide letter dated 28-1-1987. The claim



1234

of the Applicant for

promotion as Driver

'B' and as Driver 'A' is

not tenable. Hence the files

dealing with promotions of

Driver 'B' and Driver 'A'

are not relevant.

2330/96 Applicant seeks

21-3-1997

direction to the Respondents for indicating placements, pay and allowances granted to Sh. Balbir Singh from 1968 to 31-1-1987 contending that he is claiming relief from 1968 at par with Shri Balbir Singh. He accordingly seeks amendment of Order dated 28-10-96 passed by this Hon'ble Tribunal in which Respondents were directed to file their statement indicating the placement and pay & allowances granted to Shri Balbir Singh from 1984 till 31-1-1987

In O.A. the Applicant has not sought relief regarding his promotion since 1968 and thus the question of furnishing all particulars of placement, pay & allowances of Shri Balbir Singh does not arise. There is no error in the order dated 28-10-96 passed by this Hon'ble Tribunal. It is further submitted that this Hon'ble Tribunal have no jurisdiction to entertain the grievance of the applicant arising prior to 1-11-1982, in terms of Section 21 of the Act.





1                      2  
 2331/96 Applicant requests that  
 MA No.1154/96 may be  
 disposed of and  
 Respondents be directed  
 to produce documents  
 called for

3                      4  
 21-3-97  
 The Applicant in certain  
 cases has not furnished  
 complete particulars of the  
 documents sought to be  
 produced. The other documents  
 specified in M.A. namely  
 file dealing with promotions  
 of Driver 'B' and Driver 'A'  
 are not relevant in his case  
 as the Applicant had been  
 reverted from the post of  
 Goods Driver to Shunter in  
 1986.

2289/96 Applicant prays that  
 his representation  
 dated 1-2-1995 may  
 be permitted to be  
 brought on record of  
 the case.

21-3-97  
 Applicant may be strictly  
 put to proof whether represent-  
 ation dated 1-2-1995 addressed  
 to the General Manager already  
 annexed as Annexure 'A' to  
 OA or representation dated  
 1-2-1994 filed by the Applicant  
 as Annexure A/7 to MA is the  
 true copy of the representation.

40/97 Applicant prays that  
 MA No. 2330/96 filed  
 by him seeking  
 correction in Order  
 dated 28-10-96 passed  
 by this Hon'ble  
 Tribunal may be  
 disposed of

21-3-97  
 M.A.No. 2330/96 is not  
 maintainable under law.  
 Reply of the Respondents to  
 MA No. 2330/96 may be read  
 as part of reply to the  
 instant M.A.



1  
1126/96

2

3      4  
This M.A. has been filed  
by the Respondents seeking  
permission to bring on record  
Annexures R-1 to R-4 which have  
been referred to in the reply to  
M.A. No. 1154/96

2415/97 Applicant seeks  
permission to bring  
on record additional  
documents Annexures  
A/10 to A/13 filed  
with the MA

Applicant was promoted as  
Driver 'C' on 17-11-1985  
but later reverted as Shunter  
vide letter dated 29-1-1986  
as his work was found unsatisfactory  
and accident prone. His Appeal  
was rejected by the competent  
authority. Applicant remained  
on sick from 31-1-1986 to  
28-11-1986 and declared medically  
unfit for running, passing and  
crossing of track vide letter  
dated 7-11-1986 and 17-11-1986.  
Applicant retired from service on  
31-1-1987 vide letter dated  
28-1-1987. In the circumstances  
promotion order dated 27-10-86 as  
Driver 'B' now sought to be  
brought on record are not  
relevant.

110/98 Applicant seeks  
directions to the  
Respondents to file  
reply to M.As  
1126/97, 1127/97,  
1684/9 , 1683/97,  
2315/97 and 2415/97.

30-6-96  
Respondents seek direction  
to the Applicant to supply copies  
of the M.As. to which reply has  
not been filed by the Respondents



1	2	3	4
111/98	Applicant seeks directions to bring on records additional documents filed by him as Annexure A/14 of MA	Applicant ought to have filed the documents along with his O.A. Documents now sought to be placed on record are not relevant for the purposes of adjudication of his case.	30-6-98
303/98	Applicant prays for his case being listed before a particular Bench for adjudication	Applicant cannot choose a particular Bench for hearing of his case.	30-6-98
2315/97	Applicant seeks permission to bring on record additional documents viz. copy of judgement dated 18-7-91 in TA No. 547/86 and his service certificate	Applicant has not indicated as to how the additional documents sought to be brought on record are relevant for the purposes of adjudication of the matter in dispute.	5-1-99
1057/98	Applicant seeks direction to the Respondents to file their replies to following MAs: 1126/97    2315/97 1127/97    211/98 1684/97    110/98 1683/97    303/98	Respondents have filed their Affidavit on 11-8-1998 in compliance of order dated 19-9-1997 passed by this Hon'ble Tribunal. Replies to remaining M.As. will be filed before 5-1-1999, the next date of hearing.	5-1-99



1                      2  
 1684/97 Applicant submits  
 that pleadings in  
 M.As No. 1154/96,  
 2330/96, 2331/96,  
 2289/96, 40/97  
 are complete and  
 may be disposed  
 of.

Applicant  
 further submits  
 that he has filed  
 2 more M.As No.  
 1126/97 and  
 1127/97 on which  
 direction may be  
 given by this  
 Hon'ble Tribunal

1683/97 Applicant seeks  
 direction to the  
 Respondents to file  
 seniority list and  
 promotion letters  
 and also file the  
 records as prayed  
 for in MA No.  
 1154/96

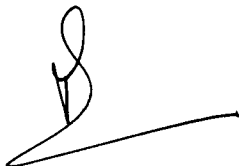
3                      4  
 Respondents received a  
 copy each of 5 M.As. from  
 the Court Master on 17-12-98  
 Respondents submit that replies  
 to aforesaid M.As will be filed  
 before 5-1-1999, the next date  
 of hearing.

Reply to M.A. No. 1126/97  
 has already been filed. Reply  
 to M.A. No. 1127/97 will be  
 filed before 5-1-1999.

5-1-99  
 Applicant was reverted from the  
 post of Driver 'C' to Shunter  
 vide order dated 30-1-1986 as his  
 working was found most unsatisfactory  
 and accident prone. He remained  
 on sick from 31-1-1986 to 27-11-86  
 and declared medically unfit  
 in November 1986 and retired  
 from service on 31-1-1987. The  
 claim of the applicant for  
 promotion to higher grades is  
 not tenable and hence seniority  
 list and promotion orders to  
 higher grades are not relevant  
 in his case.



<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
2451/98	Applicant seeks directions for filing Rejoinder to additional reply dated 7-8-1998 of the Respondents being brought on record of the case.	Respondents have not received rejoinder to the Respondents' additional reply dated 11-8-1998. Additional Affidavit of the applicant is not necessary for the purposes of adjudication of the matter in dispute.	5-1-9
1127/97	Applicant seeks amendment of relief clause in Para 8 of O.A. and wants to seek relief for his promotion as Fireman Gde. 'B' from 1968 to April 1980; Diesel Assistant from November 1972 to March 1981 and Shunter 'B' Gde from Oct. 1976 to Aug. 1981 and Driver 'C' from December 1972 to October 1985, as Driver 'B' from June 1984 and as Driver 'A' from February 1986.	Respondents submit that this Hon'ble Tribunal have no jurisdiction to entertain the grievances of the Applicant which arose prior to 1-11-1982 in terms of Section 21 of the Administrative Tribunals Act, 1985. The present M.A. of the Applicant seeking amendment of prayer clause is misconceived and not maintainable under law.	1-2-10

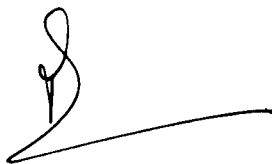


10. We have seen the pleadings and heard counsel for the respondents. Applicant was given punishment of WIT without cumulative effect for one year vide order dated 11.01.1980 which was challenged by the applicant by filing Suit in the court of Sr. Sub Judge. The suit was transferred to the Tribunal and renumbered as T.A. No.39/86. The T.A. was allowed on 09.08.1991 as follows:

"In view of the above, we allow this transfer application and quash the order dated 14.01.1980 imposing the punishment on the applicant. The applicant shall be paid the amount due to him on account of withholding of the increment within three months from the date of this order and all other consequential benefit shall also be allowed to him. No order as to cost."

11. In the additional affidavit filed by respondents, it has been clarified that the punishment of WIT for one year was to be implemented w.e.f. September, 1980 but before it could be implemented, applicant was already promoted as Fireman 'B' grade on 10.4.1980 and further promoted as Diesel Assistant on 3.3.1981 before effecting his punishment. He was further promoted as Shunter in the grade of Rs.290-400 on 22.8.1981 and his pay was fixed at Rs.302/- before the punishment of WIT for one year was actually given effect to from 1.8.1982 to 31.7.1983.

12. From above, it is clear that though penalty order of WIT for one year was issued on 11.1.1980, it was not given effect to and applicant had gained further promotions. It has thus not come in his way of promotion.



13. The WIT was actually given effect to from 1.8.1982 to 31.7.1983 by which time applicant had gained 3 promotions in quick succession.

14. For further promotion as Driver Goods, it was pre-condition that applicant should have passed B-17 Course. He was indeed sent for B-17 Course at Zonal Training School, Chandausi from 14.1.1983 to 16.3.1983 but he failed. He passed the B-17 Course on 17.7.1984, as such was promoted as Driver Goods on 17.7.1985. It is thus clear that promotion as Driver Goods was not denied due to WIT but because he failed to pass the B-17 Course. In view of above, it cannot be stated that applicant has been denied the consequential benefits as directed by this Tribunal in its judgment dated 9.8.1991.

15. At this stage it would be relevant to refer to the order dated 10.1.1984 passed in C.P. No. 243/1993 alleging disobedience of order dated 9.8.1991. It reads as under-

“Learned counsel for the petitioner, however, maintains that the petitioner has lost promotion on account of the penalty and his case for promotion should be considered and the benefit of promotion and consequential benefits of higher amount of revision of pension should have been made available to him. It is not possible to understand the directions of the Tribunal as envisaging these relief. The claim of the petitioner was restricted to challenging the impugned order of punishment withholding the increment for a period of one year. That penalty did not have the effect of affecting the future increments. Hence the payment on account of withholding of increment for a period of one year has been made over to the petitioner. The expression ‘Consequential Benefits’ in the context cannot be understood as directing the respondents to consider the case of the petitioner for promotion and other consequential benefits. We do not find any expression in the judgment in this behalf and it is



evident that no such argument was advanced in the course of arguments. Hence, it is not possible to accept the contention that the respondents have committed contempt. However, we do not express any opinion on the question as to whether the petitioner is entitled to claim other relief in regard to promotion and revision of pension etc. If he has any grievance to make, nothing which we have said will come in his way while agitating all those rights in accordance with law".

16. From above, it is clear that even at that time court was of the view that consequential benefits in the context cannot be understood as directing the respondents to consider the case of the petitioner for promotion and other consequential benefits.

17. In any case respondents have now explained that after punishment of WIT was given effect to in 1982-83, applicant was promoted as Driver Goods on 17.7.1985 but thereafter he was reverted as Shunter in the grade of Rs.290-400 as his work was found unsatisfactory vide letter dated 20.1.1986. Thereafter he remained sick from 31.1.1986 to 27.11.1986 and was declared medically unfit for running, passing and crossing of track. Ultimately, he retired from service on 31.1.1987. These are subsequent events and have nothing to do with the judgment dated 9.8.1991.

18. There is only one aspect which needs consideration. Respondents have stated, they had prepared a cheque for Rs.153/- after his WIT was quashed by the Tribunal but applicant refused to take it whereas applicant has disputed this averment.





19. To ascertain the correctness of this averment made by respondents, we had directed them to produce the records.

20. Counsel for the respondents stated since it is an old matter, records are not available at this stage. However, in the counter affidavit filed by respondents they have stated themselves as follows:-

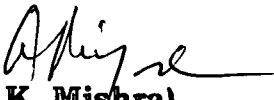
" The judgment has been complied with fully and accordingly a cheque for Rs.153/- bearing No.368965 drawn in favour of the applicant on account of arrear of refixation of pay was refixed but he refused to acknowledge the same. Hence the cheque had been sent to him through Registered Post which was not received by the applicant and returned back to the office".

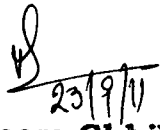
21. It means the amount of Rs.153/- has still not been accepted by the applicant. Since the amount was offered but not accepted by the applicant, he would not be entitled to get any interest on Rs.153/-. However, he is entitled to get this amount. Accordingly, respondents are directed to give an amount of Rs.153/- to the applicant within 4 weeks from the date of receipt of a copy of this order.

22. In view of the final order passed and the explanation given by respondents, MAs also stand disposed of because all the facts have already been discussed above. Applicant cannot enlarge the scope of main OA by filing different MAs. We are satisfied that the WIT did not hamper his promotion in any way. On the contrary applicant was given promotion even after punishment of WIT was issued because it was not implemented immediately.



23. OA stands disposed of with the above directions. No costs.

  
(Dr. A.K. Mishra)  
Member (A)

  
(Mrs. Meera Chhibber)  
Member (J)

Rakesh