

Central Administrative Tribunal, Principal Bench

Original Application No. 1399 of 1996

New Delhi, this the 3rd day of April, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman  
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Sunder Pal, APE Driver, Delhi Division,  
Northern Railway, Office of the Carriage &  
Wagon Superintendent, Tuglakabad, New Delhi -Applicant

(By Advocate -None)

Versus

1. Union of India through the General Manager  
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern  
Railway, Delhi Division, DRM Office,  
Paharganj, New Delhi.
3. The Sr. Divisional Personnel Officer,  
Northern Railway, Delhi Division, DRM  
Office, Paharganj, New Delhi. -Respondents

(By departmental representative Shri Yudhhishthir, APO)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman-

Non-payment of the pay scales of the post on which the applicant has in fact been working has been made the bone of contention in the present OA.

2. The applicant was appointed as a Safaiwala in the grade of Rs.800-1150 (RPS). While working as such he was assigned duties of Assistant Pump Engine Driver with effect from 1987. This was after he was trade tested after undergoing training for a period of about a week from 3.8.1987 to 8.8.1987. The scale of Assistant Pump Engine Driver is Rs.950-1500. The applicant, however, was not given the aforesaid grade and was continued in the grade of Rs.800-1150 meant for Safaiwala.

3. In order to justify non-payment of the aforesaid pay scale of Assistant Pump Engine Driver, all that has been submitted on behalf of the respondents is

that he was inducted as Assistant Pump Engine Driver without the approval of the Personnel Branch. Whether the applicant was working as Assistant Pump Engine Driver with or without approval of the Personnel Branch, in our view is not of much consequence. The fact remains that he has in fact been working as such. If the respondents have had the benefit of the services of the applicant in the aforesaid post of Assistant Pump Engine Driver, they cannot be heard to say that he is not entitled to be paid for the said post merely because of non-approval of the Personnel Branch.

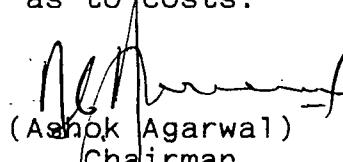
4. The applicant has pointed out that in the year 1993 the respondents vide their order dated 30th September, 1993 (Annexure-A-2) have imposed upon the applicant a penalty of withholding of two sets of passes for his dereliction of duties in not checking the proper working of the plant at the start of the shift 16/20 hrs. on 5.3.1993. The aforesaid order of penalty is in respect of his failure to render proper services as an Assistant Pump Engine Driver. Not only the respondents have taken the benefit of his services as Assistant Pump Engine Driver, they have gone <sup>on</sup> ~~up~~ to impose a penalty for his dereliction of duty in his capacity as Assistant Pump Engine Driver.

5. In the circumstances, we have no hesitation in holding that the applicant is entitled to be paid the grade of Rs. 950-1500, which is the grade prescribed for the post of Assistant Pump Engine Driver. The respondents are accordingly directed to calculate the difference of salary payable <sup>for</sup> on the aforesaid post and salary which has been paid to him, and pay over the same

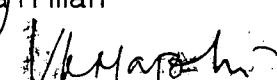
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to the applicant. This be done expeditiously and within a period of three months from the date of service of a copy of this order. The present OA is accordingly allowed. There will, however, in the facts and circumstances of the case be no order as to costs.

  
(Ashok Agarwal)

Chairman

  
(V.K. Majotra)

Member (Admnv)

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