

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.NO.583/97

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 10th day of March, 2000

Umesh Chandra Jain  
s/o Shri Roshan Lal Jain  
Permanent Way Inspector  
Northern Railway  
Gurgaon (Haryana)  
r/o E-33, Railway Colony  
N.Rly., Gurgaon.

... Applicant

(None)

Vs.

1. Union of India through  
The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. Divisional Rly. Manager  
Northern Railway  
Bikaner.

... Respondents

(None)

O R D E R (Oral)

By Reddy, J.-

None of the parties are present, either in person or through their counsel. Since this is the matter of 1997 and has been expedited by the Hon'ble Chairman at the request of the applicant, we proceed to dispose of the matter on merits, without adjourning the same under Rule 15 of the CAT (Procedure) Rules, 1987.

2. The applicant was appointed on 12.5.1972 as an Apprentice Assistant Inspector of Works (AIOW) in Western Railway. He was subsequently appointed on regular basis as AIOW on 12.11.1972 in the pay scale of Rs.205-280 on the pay of Rs.205/- per month.

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Subsequent to the acceptance of the recommendations of the Third Pay Commission w.e.f. 1.1.1973, his pay scale was revised to Rs.425-700 and his pay was revised to Rs.425/- from 1.1.1973. After he earned the annual increment his pay was fixed at Rs.440/- w.e.f. 1.11.1973. Thereafter, the post of AIOW was declared surplus and there upon the applicant was declared surplus along with 18 other AIOWs. The applicant was asked his willingness for transfer to the Northern Railway against the vacancy of Permanent Way Inspectors along with other 18 AIOWs for which the applicant submitted his willingness and by order dated 25.3.1977 the applicant was transferred to Northern Railway and he joined the duty on 7.4.1977 at Bikaner Division. On the basis of the declaration made by the applicant, his pay had been fixed at Rs.1440/- vide Annexure-A/10 dated 26.11.1987. There was a gap in the service of the AIOW from the time they were declared surplus and the date when they joined as Assistant Permanent Way Inspector, Northern Railway. In view of several representations made by the applicant and other to the Railway Board, the Railway Board condoned the break in service of the 18 AIOWs for the purposes of pay fixation, leave, retirement benefits, etc. provided the gratuity and other benefits received by them were returned.

3. One Mr. C.S.Rockdey who filed OA NO.13/90 in the Principal Bench for fixation of pay after he was absorbed as PWI in the Northern Railway and his pay was fixed as per the directions given by the Tribunal vide its order dated 18.11.1991 which was modified and a modified order was passed on 5.5.1992.



The grievance of the applicant is that his pay fixed by the respondents in the proceeding dated 26.11.1987 (Annexure-A-10) is less than the pay fixed to Mr. C.S.Rockdey and it is his plea that he is entitled to step up his pay at par with pay that was fixed to Mr. C.S.Rockdey. The applicant submits that his representation was rejected by order dated 3.12.1993, Annexure-A1.

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4. In the reply filed by the respondents, a preliminary objection was taken that the OA was barred by limitation. On merits, they have stated that the applicant's pay has been properly fixed in the proceedings dated 26.11.1987, Annexure-A10 and the applicant having been satisfied with the same he did not question the fixation of pay. He is estopped from questioning as to the pay fixation at the stage after about 9 years. It is further submitted that Mr. C.S.Rockdey approached the Tribunal for pay fixation consequent upon his absorption in Northern Railway as his pay was not correctly fixed due to non availability of service records. The Tribunal, directed the respondents to fix the pay of the applicant regardless of the fact ~~that~~ whether the service records from Western Railway ~~were~~<sup>had</sup> found or not. Hence Mr. Rockdey's pay has been fixed as per the Rules in the year 1992. It is averred in the reply that there is no anomaly in pay fixation between the applicant and Mr. C.S.Rockdey.

5. We have carefully gone through the pleadings and other material papers filed by the parties. The preliminary objection of limitation

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appears to be valid and acceptable. The grievance of the applicant in this OA is to step up his pay to bring it at par with the pay of his colleague, Mr.C.S.Rockdey. Mr. Rockdey's pay has been fixed in the proceedings dated 5.5.1992 in pursuance of the Judgment of the Tribunal in OA No.13/90. The applicant himself stated that he made representations on 16.2.1993 and on 10.6.1993 and they were rejected on 3.12.1993 (Annexure-A1). Even if the dates as mentioned above are taken to be the starting point of limitation, the applicant should have filed the OA, within one year from 3.12.1993, i.e., before 3.12.1994. The OA was, however, filed on 10.3.1997. Hence the OA is clearly barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. In fact as per the provisions of the Section 21 of the Act, the starting point for limitation being 5.5.1992, he could have filed the representation soon thereafter and should have waited for response on the representation only six months and thereafter he should have approached this Tribunal within one year. Hence, the OA, as per the law of limitation, should have been filed by 5.9.1994, giving three months time for filing the representation. Either way, the OA is barred by limitation, the OA is therefore dismissed on the ground of limitation.

6. Even on merits, we do not find any substance in the case of the applicant. The grievance of the applicant is as to the grant of increment as the same was granted to Mr.C.S.Rockdey. In the counter, it has been stated that Mr. C.S.Rockdey was granted one advance increment being a loyal worker to the administration during the strike at Western Railway's (Headquarters) office. This explains the difference of one increment between the pay of the

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applicant and Mr. C.S.Rockdey. The applicant's pay has been fixed on 26th November, 1987, Annexure-A10 and the applicant was fully satisfied about the correctness of the same, hence, he did not agitate against the said pay fixation. The applicant cannot therefore claim for stepping up of his pay at par with Mr. C.S.Rockdey, who had been given one advance increment to which the applicant is not entitled to. In the circumstances, finding no merit, the OA fails and is accordingly dismissed. No costs.

*Shanta Shatry*  
(SHANTA SHATRY)  
MEMBER(A)

*V. Rajagopala Reddy*  
(V. RAJAGOPALA REDDY)  
VICE-CHAIRMAN(J)

/rao/