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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.34/94.

New Delhi, this the 24th day of May, 1994.

SHRI J.P. SHARMA, MEMBER(J).

Shri P.S.Khare,
son of Shri N.D. Khare,
aged about 35 years,
working as Chief Law Assistant,
Divisional Railway Manager, Northern Railway,
New Delhi, c/o Jwala Prasad Gola, 4034, Ram Secondary School,
Gali No.2, New Delhi-110055. ...Applicant

By advocate : Shri H.P. Chakravorty.

VERSUS

Union of India, Through The Secretary,
Ministry of Railways, Railway Board, New Delhi.

2. The General Manager,
Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager,
Northern Railway, State Entry Marg, New Delhi.
...Respondents

By advocate : Shri O.P.Kshatriya, through not present.

ORDER (ORAL)

The applicant has been working as Law Assistant in the scale of Rs.1600-2660 from 29-10-88. He was promoted as Chief Law Assistant grade Rs.2000-3200 on 26-7-91 vide letter dated 26-7-91. The applicant has been put under suspension by an order dated 21-7-92 (annexure A-II) with effect from the date. The only grievance of the applicant is non-payment of annual increment in the scale of Rs.2000-3200 w.e.f. 1-7-92 and he has prayed for grant of the relief that a direction be issued to the respondents to that effect.

2. The respondents in their reply stated that the applicant has been granted increment w.e.f. 1-7-92 and his pay now has been raised to Rs.2,060 from that date. Since the applicant was put under suspension w.e.f. 22-7-92, his case could not be considered

for the increment which fell due on 1-7-93. Thus, it is stated that the applicant is not entitled to any relief.

3. The applicant has also filed the rejoinder and has stated that suspension is no bar for withholding of annual increment and he has referred to the authority of U. GANGA RAJU v. DIVISIONAL RAILWAY MANAGER, SC RAILWAY, VIJAYAWADA AND OTHERS decided by Central Administrative Tribunal, Hyderabad Bench on 12-2-92 where the Tribunal held that annual increment during suspension period be allowed only for purposes of calculating the subsistence allowance. The Tribunal has considered the provisions of FR 53 and the clarification referred to under FR 26 at page 139 of Swamy's Compilation of FRSR and held that only for the purposes of calculating the subsistence allowance and payment of suspension allowance, the increment can be granted to the applicant unless it has been withheld by an order of competent authority. The Tribunal has also referred to an authority of ALLAHABAD HIGH COURT reported in 1971(2) SLR p.523 of MRITUNJAI SINGH v. STATE OF U.P. AND OTHERS.

4. Heard the learned counsel for the applicant and none is present on behalf of the respondents. Since this is a short matter, it is disposed of at the admission stage itself. The provision of FR 53 as well as the judgment referred to above of the CAT, Hyderabad Bench goes to show that a person under suspension cannot be deprived of addition of annual increment only for the purpose of grant of subsistence allowance during the suspension period. The respondents have also not referred to any rule or circular of the railway that the annual increment in the case of suspended employee under rule 5 of DAR, 1968 can be withheld, nor anybody is present on behalf of the respondents to further substantiate the averment made in the counter.

5. In view of the above facts, the application is allowed with a direction to the respondents to give the applicant annual increment which fell due on 1-7-93 and the subsistence allowance

during the suspension period may be calculated after addition of this increment. It is made clear that the applicant will also be entitled to the increment which the respondents have themselves allowed on 1-7-92 raising his pay from Rs.2,000 to Rs.2,060. Thereafter, his pay will be raised to Rs.2,120 w.e.f. 1-7-93. Respondents to comply with these directions within a period of three months from the date of receipt of a copy of this Order. In the circumstances, the parties are directed to bear their own costs.

J. P. SHARMA

(J.P. SHARMA)
MEMBER(J)

'KALRA'