

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1423/94

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New Delhi this the 11th Day of April 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

Shri Mohinder Singh Sharma,  
S/o Shri Jai Chand  
Chief Booking Clerk,  
Northern Railway,  
Mussaffar Nagar

Applicant

(By Advocate: Shri B.S. Mainee)

Vs

1. The General  
Northern Railway,  
Baroda House,  
New Delhi

2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi

Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

1. The petitioner in this case was working as a Head Booking Clerk at Muzaffarnagar in the grade of 420-640/- under D.R.M. Northern Railway, New Delhi. Respondents held a selection for the post of Chief Booking Clerks in the grade of Rs. 455-700/- and a panel of 14 persons in terms of their letter dated 25.3.1986 was prepared including the applicant's name at serial no. 5. The applicant was duly promoted in accordance with the said select panel and the pay of the applicant in the grade of Rs. 455-700/- was fixed at Rs. 580/-.

2. After the acceptance of the recommendations of the 4th Pay Commission, applicant's pay was fixed in the revised pay scale at Rs. 1720/- in accordance with rules, on the basis of his pay which has been fixed at Rs. 580/- in the grade of 455-700/-.

3. Learned counsel for the petitioner has produced a copy of Ready Reckoner applicable to his scale of pay as Annexure A-III. The extracts out of the said ready reckoner at the pay scale of Rs. 470, 560 and 580 are reproduced herebelow:

| Basic Pay<br>Rs. | DA+ADA<br>Rs. | IR<br>I&II<br>Rs. | 20% basic<br>pay subject<br>to minimum<br>of Rs. 75/-<br>Rs. | Total<br>Rs. | Pay fixed<br>in new<br>scale<br>Rs. |
|------------------|---------------|-------------------|--|--------------|-------------------------------------|
| 470              | 845-80        | 110               | 94-00  | 1449-80      | 1480-00                             |
| 560              | 842-80        | 116               | 112-00   | 1630-80      | 1640-00                             |
| 580              | 872-90        | 118               | 116-00   | 1686-90      | 1720-00                             |

4. It could be seen from the above said ready reckoner that when the pay of the applicant was fixed at Rs. 580/-, the conversion to the revised pay scale would come at Rs. 1720/- and in the case of the petitioner it was so fixed by the respondents. Respondents also issued necessary orders dated 26.8.1986 in this regard vide Annexure A-II with respect to all the 15 persons in the select list.

5. The respondents on the other hand on 30.3.1987 issued fresh orders reducing the pay of the petitioner to 1640/- by reducing the pay to Rs. 560/- as illustrated

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above in the extract of the ready recknor. Respondents proceeded to do so, admittedly without notice, stating that they have committed a mistake by fixing the basic pay of the petitioner at Rs. 580/- instead of Rs. 560/-. Petitioner is challenging this order of the respondents in this OA.

6. The case of the petitioner therefore is that in March, 1987, the respondents have reduced the pay without any notice or hearing before effecting reduction of pay. Though the applicant sent repeated representations, the only reply dated 24.2.1987 available to the petitioner was that annexed at Page 25 of the paper book. It is seen from the said order, even though the said order was not in reply to the representation of the petitioner, rather it is only an internal communication between the DRM, New Delhi, and Chief Personnel Officer, Northern Railway, the explanation for the reduction in the pay of the petitioner is stated in the said internal communication and the material part of the said clarification is reproduced herebelow:-

"The orders contained in Rly Board's letter No. ECNG/1-86/PM-1-II dated 5.2.1987 circulated under this office letter of even number dated 4.3. (CPS 9185) pertains to classification for promotion to selection/non-selection posts and has no relevancy with the fixation of pay in revised pay scale 1986".

7. It is to be seen that the explanation communicated internally on the face of it seems to be wrong for the reason that the respondents in the illustration contained in the letter dated 24.8.1987, has omitted the column of "202 basic pay subject to minimum of Rs. 75/-", the column shown as 4th in the ready recknor extracted above. The contention of the petitioner therefore, is that even though no reply

has been given to his representation, the internal communication indicates that in the name of correcting the mistake they have resorted to another mistake therefore even on the basis of the internally disclosed grounds, the reduction of pay subjected to by the respondents to the petitioner is also illegal and wrong.

8. It is an admitted case that even though the recommendations of the 4th Pay Commission with respect to group 'B', 'C' and 'D' had to be implemented w.e.f. 1.4.1986 the Govt. infact implemented it w.e.f. 1.1.1986. It is considered that some of the colleagues of the present petitioner had filed an OA No. 1405/87 in the matter of P.C. Aggarwal Vs. UOI praying for quashing similar order passed in May, 1987 and direction to the respondents to restore their pay which was arbitrarily reduced in 1987. The said application was allowed by a judgement of this court dated 24.4.1990. This Tribunal had quashed the said impugned order with a direction to the respondents to restore the original fixation of pay and to have the pay of the applicants fixed in the corresponding revised pay.

9. It is also an admitted fact that the respondents have implemented that judgement and have fixed the pay of those applicants as per the directions of this court w.e.f. 20th June, 1987. It has been fairly conceded by the learned counsel for the petitioner that he is not seeking any arrears of pay in this case. He further submitted that his only prayer is that his pay may be re-fixed in the same manner as this court had directed in the case of PC Aggarwal vs. UOI, with prospective effect.

since the present applicant is also placed in similar situation as that all of those applicants in PC Aggarwal vs. UOI case, the present applicant is also entitled to the benefit of the previous judgement and he relied upon the decision of the Hon'ble Supreme Court in case of Amrit Lal Behari vs. Union of India and A.K. Khanna vs. UOI. He also contended that reduction of pay in the case of the petitioner was without notice and on the face of it is illegal. Even assuming the original fixation of the petitioner was by a bonafide mistake; reasons indicated internally shows that there was no mistake at all. It was also the case of the petitioner that after the case of PC Aggarwal, the respondents had the duty to suo-moto revise the pay of all the similarly placed persons restoring their original fixation of pay and the respondents themselves should have fixed the pay of all the similarly placed persons as on said date of 20.6.1991 in the corresponding revised pay scales.

11. The only material objection raised on behalf of the respondents in their reply is a technical plea of limitation. In view of the fact that the original fixation on the face, is seen to be correct and a subsequent, allegedly, mistaken revision is also shown to be wrong and considering the fact that the respondents had an obligation to suo moto restore the pay of all the similarly placed persons after the decision of this court in the case of PC Aggarwal's case when the respondents themselves implemented the case on 20.6.1991 without obliging the similarly placed persons individually approach this court for relief. We are

of the considered view that wherever such an obligation exists on the part of the respondents, a corresponding claim cannot be resisted by the respondents by a technical plea of limitation.

12. We are also of the view that since the respondents have implemented the said orders in the case of PC Aggarwal w.e.f. 20.6.1991, and thereafter in the case of Mohinder Singh and others (OA No. 1863/91), this court has passed another order on 15.5.1993 with a direction to restore the pay of the petitioners therein and to have fixation of pay of the applicants therein in the corresponding revised pay scales. In view of these, the substantive claim of the petitioners cannot be defeated only on the technical point of limitation since the subject matter is already gone into and has been considered by this court and rightly implemented by the respondents themselves.

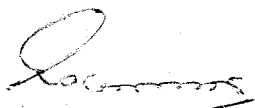
13. In view of the discussion above, the orders passed by the respondents on 30.3.1987 reducing the pay of the petitioner cannot be sustained. It is directed that the pay of the petitioner shall be restored as fixed by the respondents themselves on 26.8.1986 within two months from today and since the petitioner is not claiming any arrears of pay, apart from arrears of pay, all other consequential benefits shall be given to the petitioner.

14. It will not be fair to leave the matter here as it is, and we are inclined to award cost against the respondents for the reasons stated in the paragraphs just above. The learned counsel for the petitioner has fairly

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conceded that the cost, if any, awarded, may be given to the Legal Aid Cell of the CAT Bar Association. We direct that the respondents shall pay cost of Rs. 1000/- (Rupees one thousand only) and the same will be deposited in the CAT Bar Association, Legal Aid Cell, within one month from today. The respondents are also given liberty to recover the amount from among the officers who are found to be responsible for the state-of-affairs as noted in this case after an initial inquiry into the matter.

15. With these directions this OA is allowed.

  
(S.P. Gowas)  
Member (A)

  
(Dr. Jose P. Verghese)  
Vice-Chairman (J)

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