

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No. 1294/89  
T.A. No.

199

DATE OF DECISION 22-10-1991

<u>Shri Nanak Chand</u>	<u>Petitioner</u> Applicant
<u>Shri Umesh Misra</u>	Advocate for the <u>Petitioner(s)</u> Applicant
Versus	
<u>Union of India &amp; Another</u>	Respondent
<u>Shri Arvind Sinha</u>	Advocate for the Respondent(s)

**CORAM**

The Hon'ble Mr. S.P. Mukerji, Vice-Chairman (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? Do
3. Whether their Lordships wish to see the fair copy of the Judgement ? W
4. Whether it needs to be circulated to other Benches of the Tribunal ? W

(Judgement by Hon'ble Mr. S.P. Mukerji,  
Vice-Chairman)

The short point in this application filed by the applicant is whether he is entitled to the same pay and arrears as have been granted to his junior, Highly Skilled Fitters in the Northern Railway. The respondents, despite umpteen opportunities and adjournments since July, 1990, failed to file any reply or counter-affidavit to the main application as a result of which they forfeited their right to file a reply. The case was to be heard early on the direction of the Hon'ble Chairman dated

9

30.8.1990 on an M.P. filed by the applicant who is a low-paid employee. The case was listed for final hearing on 26.9.1991 and again on 11.10.1991, when the respondents failed to enter appearance. Accordingly, the case is disposed of on the basis of the available documents and arguments advanced by the learned counsel for the applicant on 11.10.1991. In sub-para (vii) of para.4 of the main application, the applicant has quoted what he terms as 'the decision of the Railway Administration' as follows:-

"SENIOR GETTING LESS PAY TO JUNIOR - CASE OF SHRI NANAK CHAND, FITTER UNDER CWS/GZB.

*(X) Shri Ray Pal Singh* The above employee is getting less pay to his junior ~~Shri Raj Gopal~~. Shri Nanak Chand was appointed as Kh. direct on 25.2.60 in grade Rs.70-1-85 and ~~Shri Raj Gopal~~ appointed on 16.11.61 in grade 9.6.61. Shri Nanak Chand was confirmed on 31.12.69 and ~~Shri Raj Gopal~~ on 1.1.70. Both ~~Shri Raj Gopal~~ the employees were given fixation in grade Rs.196-232 under the revised pay scales on 1.1.73 and continued to draw equal pay till 1976 when Shri Nanak Chand was ignored for promotion as S.S. Fitter while ~~Shri Raj Gopal~~ passed trade test in 2/76 and promoted early. On representation by Shri Nanak Chand, he was also trade tested in 3/77 and promoted in grade Rs.210-290 on 28.3.77, thus the disparity in pay emerged as a sequel thereof, Shri Nanak Chand also got next grade of Rs.260-400 earlier on 1.9.78 than Shri Raj Gopal on 5.9.78. Shri ~~Shri Ray Pal Singh~~ Raj Gopal was granted retrospective promotion in grade Rs.380-560 from 1.1.84 and Shri Nanak Chand again ignored. It is urgent that Shri Nanak Chand may also be deemed to have been granted promotion from 1.1.84 and pay fixation made accordingly."

2. The applicant's contention is that for no fault of his, he was ignored for giving the trade test which resulted in his belated promotion and his junior getting

higher pay. The fact, however, remains that the applicant moved this Tribunal long after his juniors were given higher pay and promotion. He cannot, therefore, claim arrears of pay or monetary benefits accruing from notional promotion for the period prior to three years from the date of filing of the present O.A. before the Tribunal on 9th June, 1989. We see considerable force in the averments made by the applicant and allow the application with the direction that the pay of the applicant should be determined as

if he had passed the trade test along with his junior,  
*Shri Raj Pal Singh*

*Shri Raj Gopal*, in February, 1976 with all consequential  
18/11/89

benefits of notional promotion with retrospective effect  
to the *Shri Raj Pal Singh*

corresponding dates of promotion of *Shri Raj Gopal*. The

18/11/89  
arrears of pay, however, should be paid to the applicant only with effect from 9th June, 1986. Action on the above lines should be completed within a period of three months from the date communication of this order.

3. There will be no order as to costs.

of name  
Corrections in The judgment at page 2 and 3 made  
as per Notice comes order dt  
13-11-82 - CCP 225/92  
O.A. 1294/89

*S.P. Mukerji*  
22.7.91  
(S.P. Mukerji)  
Vice-Chairman (J).

*x*  
18/11/89