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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1589/88

DECIDED ON : 15.4.93

Bhola Nath

... Applicant

Vs.

Union of India & Ors.

... Respondents

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri B. S. Mainee, Counsel for Applicant
Shri P. S. Mahendru, Counsel for Respondents

J U D G M E N T

The applicant while working as Shunter in the grade of Rs.290-400 in the Northern Railway was medically de-categorised vide order dated 19.5.1981. He was offered an alternative equivalent job and he was absorbed as IDC in the pay scale of Rs.260-400. The applicant at the time of absorption, i.e., 23.5.1981, was drawing a total salary of Rs.334/- as Shunter. The pay in the grade of IDC was fixed after giving the benefit of running allowance to the tune of 30 per cent of the basic pay. The salary of the applicant was fixed at the maximum of the scale of IDC at Rs.400/-. The new pay scales came into effect from 1.1.1986 on the recommendations of the 4th Pay Commission and the applicant was fixed in the revised pay scale of Rs.950-1500 at Rs.1400/-, and after adding another increment at Rs.1450/-. The applicant aggrieved by his fixation of pay made a representation on 8.1.1988 (Annexure A-4) to the respondents, Senior D.P.O., Northern Railway, making a request to review the case of his fixation of pay and allowances at Rs.434/- w.e.f. 23.5.1981 against Rs.400/- which was fixed earlier in the pay scale of Rs.260-400/-. The respondents

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did not give a satisfactory reply to the applicant. Hence, he filed the present application under Section 19 of the Administrative Tribunals Act, 1985 on 22.8.1988. The applicant prayed for the grant of following reliefs :-

- (a) A direction to the respondents to re-fix the salary of the applicant giving the full benefit of 30% increase against running allowance as has been done in the case of one Shri Subhash Prasad Singh.
- (b) Further direction to the respondents to fix the salary of the applicant in the maximum of the scale of Rs.950-1500 at Rs.1500/- and the remaining amount may be allowed as personal pay as has been done in the case of Subhash Prasad Singh.

2. The respondents have contested this application and stated that the applicant while working as Shunter received injuries and as a result thereof he became incapacitated to discharge his duties. The applicant was offered alternative job in the equivalent or almost similar pay scale of LDC. The pay of the applicant has been fixed as per PS No. 2012 read with rule 34 which states that the pay has to be fixed subject to such pay not exceeding the maximum of the scale of alternative appointment and this limit has to be adhered to. In view of this, the pay of the applicant was fixed at the maximum of the scale of LDC, Rs.260-400 at Rs.400/- as per the instructions of the Railway Board. It is further stated that the pay of Subhash Pd. Singh, ex-Shunter who was also medically decategorised and absorbed as Electrical Clerk in 1987 was wrongly fixed and by the office order dated 17.10.1988 the fixation of pay of the said Subhash Pd. Singh has been revised and instead of giving him Rs.1500/-, the maximum of the scale of LDC - Rs.950-1500, the personal pay

of Rs.216/- has been withdrawn and the arrears were also ordered to be recovered. Thus, the applicant has no case.

3. In the rejoinder filed by the applicant to the reply, it is not disputed that the case of fixation of pay of the applicant is governed by PS 2012 read with rule 34.

4. I have heard the learned counsel for both the parties at length and perused the record. The arguments in this case were concluded on 16.3.1993 and the judgment was reserved. The learned counsel for the applicant, Shri B. S. Mainee, prayed for two weeks' time to file certain circular relevant for fixation of pay of de-categorised employees in the Railways when they are posted at alternative job in a lower scale. Two weeks' time was granted to the learned counsel and the Court Officer reported on 12.4.1993 that inspite of repeated reminders to the learned counsel for the applicant, Shri Mainee, no such circular has been made available to be placed for perusal of the Bench. In view of this, it is taken for granted that the applicant has nothing to furnish against the circular PS 2012 read with rule 34 relied upon by the respondents, in the fixation of pay of the applicant. It is not denied that the applicant belongs to running staff. To calculate the emoluments of the running staff while fixing pay in the alternative job after de-categorisation 30% of the basic pay is also to be added. In the present case the applicant was drawing on 23.5.1981 Rs.334/- and 30% of this amount comes to about Rs.100/-. So, the pay of the applicant in the de-categorised post had to be fixed at Rs.434/- as he was being posted to a stationary post. However, the circular of the Railway Board PS 2012 specifically lays down that the pay so fixed on the alternative post cannot increase the maximum of the scale. The maximum of the scale at the relevant time was Rs.400/- in the pay scale of Rs.260-400. The pay of the applicant has been fixed at Rs.400/- and that cannot be found fault with.

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5. The applicant has cited the case of Subhash Prasad Singh and also laid a claim of Rs.1500/- in the scale of Rs.950-1500 at the maximum of the revised scale of LDC. In fact, Subhash Pd. Singh was medically de-categorised after the enforcement of the revised pay scales in 1987 and the total emoluments of Subhash Prasad Singh adding the running allowance come to Rs.1716/-. When the applicant filed the present application, the said Subhash Pd. Singh has been given the maximum of the scale of LDC, i.e., Rs.1500/-. The applicant was also similarly placed in the maximum of the pay scale on 23.5.1981 at Rs.7400/-. Thus, the pay has to be fixed subject to such pay not exceeding the maximum of the pay scale of alternative appointment. The respondents have filed a copy of the circular PS 2012 as annexure to the counter. Nothing has been shown by the applicant contrary to the same. The pay of the applicant, therefore, cannot be fixed at the maximum scale of LDC at Rs.1500/- because the benefit had been drawn by Shri Subhash Prasad Singh on account of the revision of the pay scales by the 4th Pay Commission report and not because of any formula of pay fixation.

6. The present application is, therefore, devoid of merit and is dismissed as such leaving the parties to bear their own costs.

J. P. Sharma
15.4.93
(J. P. Sharma)
Member (J)