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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 270 of 1986 Date of decision: 21.12.1987

Shri Partap Singh Applicant

Vs.

General Manager, Northern Railway Respondents

Shri I.C. Kumar Advocate for the applicant.

Shri Jagjit Singh Advocate for the respondents.

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985, against impugned orders No. 56-E/Misc/E.iii Class IV dated 4.8.84 passed by the Assistant Secretary, Head Quarter Office, Northern Railway, New Delhi.

2. The brief facts of the case are that the applicant was appointed as a Trolleyman in the Northern Railway Head Quarter, Land Control Branch, Baroda House, New Delhi, on 12.11.1965 in the grade of Rs. 70-1-85. As a result of the implementation of the Third Pay Commission's Report, the applicant's grade was revised to Rs. 196-3-232 and his pay in the revised scale was fixed at Rs. 199.00, including one increment of Rs. 3/- allowed to avoid bunching as the applicant was running into 8th year of his service as per Note 3 below Rule 7 of the Northern Railways Notification dated 23.12.1973 dealing with the procedure for fixation of initial pay in the revised scale. As a result of the several

representations from the Railway Employees' Union for rectification of the scales of various categories of railway employees, the Railways had set up an Anomalies Committee to look into the anomalies in the pay scales arising out of the implementation of the recommendations of the Third Pay Commission relating to non-gazetted staff. The Committee submitted its reports. The Anomalies Committee recommended, inter alia, that the pay scale of Trolleyman who were in the pay scale of Rs. 196-232 be given the scale of Rs. 200-250. The General Manager, Northern Railway, while implementing the recommendations of the Anomalies Committee, revised the pay scale of Trolleyman from Rs. 196-232 to Rs. 200-250 and the respondents fixed the pay of the applicant at Rs. 200.00. The claim of the applicant is that his pay should have been fixed at Rs. 203.00 after allowing him one increment to avoid bunching of pay as per the procedure for fixation of initial pay prescribed by the Northern Railway in their gazette notification dated 23.12.1973. The applicant has also claimed that since his junior, Shri Inder Singh's pay has been fixed at Rs. 203.00, his pay should also be fixed at Rs. 203.00 with effect from 1.1.1973. He made a representation to the Northern Railway in July, 1983, and again on 8.3.84 which were rejected by the Railways on 4.8.84. He again represented to the Railways on 15.3.85 and 29.4.85, but he did not get any reply from the respondents. Therefore, on 18.9.85, he served a legal notice on the General Manager, Northern Railways. The applicant filed this application on 21.4.86 and has

² sought relief that his pay should be fixed at Rs. 203.00 on the basis of the report of the Anomalies Committee.

3. The respondents have stated that the application is not tenable as it is barred by Section 21(1) of the Administrative Tribunals Act. The respondents in their reply have admitted that pay scale of the Trolleyman was revised to Rs. 196-232 on the basis of the recommendations of the Third Pay Commission's Report and that the pay of the applicant was fixed at Rs. 199.00 w.e.f. 1.1.1973 after allowing him one increment to avoid bunching as per Note 3 below Rule 7 of the Northern Railways gazette notification dated 23.12.73 which laid down the procedure for fixation of initial pay on the basis of the Third Pay Commission's Report. The respondents have also admitted that the pay scale of the Trolleyman was revised to Rs. 200-250 on the basis of the recommendations of the Anomalies Committee's Report and the applicant's pay was fixed at Rs. 200.00 i.e. at the minimum of the new scale. They have denied that the applicant was entitled to one more increment as a result of bunching as per the Railways' notification dated 23.12.73 since the orders of the Northern Railways dated 21.8.1976, while accepting the reports of the Anomalies Committee, had superseded the earlier pay schedules. They have also admitted that the pay of Shri Inder Singh was fixed at Rs. 203.00 but it was by mistake and that his pay is being refixed at Rs. 200.00 and the excess amount paid to him is being recovered from him.

4. The Railway Board vide its letter No. E.(P&A) 11-71/JCM-8(DC) dated 1.11.73 (page 4 of the Noorthern Railways Pay Commission Circular No. 6025 (Part 1)) decided that the various pay scales of Gangmen on Railways should be revised from Rs. 70-1-80-EB-1-85 and Rs. 75-1-85-EB-2-89 to Rs. 75-1-86-2-95 w.e.f. 1.8.72. It was also decided that each gangman's pay should be fitted at the stage next higher than the existing pay in the scale of Rs. 75-95 and the date of annual increment should remain the same. It was also stipulated in that letter that since the Third Pay Commission's recommendations were also being announced, to avoid double fixation of pay and delay in finalisation of pay fixation of all such gangmen, it was necessary that their fixation of pay in the revised scale of Rs. 75-95 w.e.f. 1.8.72 and based thereon in the equivalent revised of pay w.e.f. 1.1.73 was taken in hand simultaneously and finalised and only one supplementary bill for the arrears is made out.

5. As for the limitation is concerned, the cause of action took place in 1984 which is within three years of the setting up of the Central Administrative Tribunal. It is on record that the applicant was not sitting idle but continued to represent against wrong refixation of his salary and even issued a legal notice. As such the application should have been made under Section 21(1)(b) within one year from the expiry of six months of the legal notice. The application is, therefore, covered under the Act and filing of the application is accepted within limitation. *Even otherwise the delay deserves to be condoned.*

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As far as the fixation of the pay is concerned, it has to be examined whether the scale of pay of the applicant was Rs. 70-1-80-EB-1-85 or Rs. 75-1-85-2-95 According to the Railways Pay-Commission Circular No. 6025 (Part I), the authorised scale of pay of Gangmen was revised from Rs. 70-85 and Rs. 75-89 to Rs. 75-95 with effect from 1.8.1972, but it is not clear whether the Trolleyman were to get the same scale. According to Annexure-R.1 furnished by the respondents, the pay scale of the applicant continued to be in the grade of Rs. 70-85. The same has been repeated in Annexure R-IV. This grade was revised to Rs. 196-232 by the Third Pay Commission. As this scale was lower than that of Gangmen, the question was taken up by the Anomalies Committee which rectified some of the anomalies arising out of the recommendations of the Third Pay Commission in respect of non-gazetted staff. As seen from Annexure-A to the application, based on the recommendations of the Anomalies Committee, the Railway Board revised the scale of Gatemen and Trolleyman who were at that time in the revised scale of Rs. 196-232 and Rs. 200-240 to Rs. 200-250, allowed to Gangmen. It is, therefore, clear that before the recommendations of the Third Pay Commission, the scale of pay of the applicant, who was a Trolleyman, was Rs. 70-85. Since the respondents changed the pay scale of Rs. 196-232 to Rs. 200-250, it must take effect from 1.1.1973 and the pay fixed accordingly. The position

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in respect of the applicant would be as follows:

Existing Scale: Rs. 70-1-EB-1-85 *br.*
 Revised Scale: Rs. 200-3-206-4-234-EB-4-250.

S.no.	Stage of Stage	Emoluments in the existing scale	Amount of stepping up	Total	Pay to be fixed in the revised scale under Rule 7(1)	Pay to be fixed under Note 3 to Rule 7
1	70	170	15	185	200	200
2.	71	171	15	186	200	200
3.	72	172	15	187	200	200
4.	73	173	15	188	200	200
5.	74	174	15	189	200	200
6.	75	175	15	190	200	203
7.	76	176	15	191	200	200
8.	77	177	15	192	200	203
9.	78	178	15	193	200	203
10.	79	179	15	194	200	203
11.	80	180	15	195	200	206

According to the instructions issued by the Railways, the pay of a Railway servant drawing pay at more than five consecutive stages in an existing scale gets bunched, that is to say get fixed in the revised scale at the same stage, the pay in the revised scale of such of the Railway servants who are drawing pay beyond the first five consecutive stages in the existing scale shall be stepped up by one increment for railway servants drawing pay from the 6th upto the 10th stage in the existing scale. As the applicant has put in 8 years of service ^{on} 1.1.1973 in the scale of Rs. 70-85, his pay would be fixed at Rs. 196.00 under the Third Pay Commission formula, but since the Third Pay Commission's report had been modified on the basis of the Anomalies

Committee's reports, it would be fixed at Rs. 200.00. The question is whether this should be stepped up by one increment to avoid bunching. The case of the respondents is that he was allowed one increment of Rs. 3.00 raising his pay to Rs. 199.00 under Note 3 below Rule 7 and, therefore, his pay has to be fixed at Rs. 200.00 as after the revision of his pay to Rs. 199.00 his pay could only be fixed at the minimum of Rs. 200.00 but not allowed any advantage of the bunching procedure. It has been argued by the learned advocate for the respondents that no bunching was suggested by the Anomalies Committee and when the scale were revised on the basis of the Anomalies Committee, the pay scales ordered by the Third Pay Commission were automatically not operative. I am unable to accept this position. The Anomalies Committee has only revised the pay scales but the procedure of bunching has not been specifically denied to any one. It will be against the principle of natural justice to change the formula ^{or procedure for} of fixation of pay. As such, I feel that the applicant should have been given the advantage of one increment of Rs. 3/- raising his pay to Rs. 203.00 with effect from 1.1.1973. The respondents are directed to fix the salary of the applicant at Rs. 203.00 with effect from 1.1.1973 and make all the payments to the applicant, including all arrears, within a period of three months from the receipt of these orders. There will be no orders as to cost.

*Don**Application allowed as above.**B.C. Mathur*
3.12.87

(B.C. MATHUR)

Vice-Chairman