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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 85 of 1986
~~T.A. No.~~

DATE OF DECISION 17th April 1986

Tej Pal Tuli Petitioner

Petitioner in person Advocate for the Petitioner(s)

Versus

Ministry of Railways Respondent

Mr. K.N.R. Pillay, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Member

The Hon'ble Mr. H.P. Bagchi, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

JUDGMENT:

The petitioner has come up under Section 19 of the Administrative Tribunals Act praying that the Railway Administration who are the respondents may fix his pay at Rs.1450/- on promotion and refrain from any action to reduce his pension and retirement dues.

2. The admitted facts of the case are briefly as follows. The applicant was working as Assistant Hindi

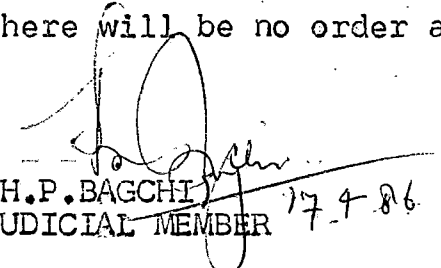
Officer in the Class II grade of Rs.650-1200 when he was promoted as Hindi Officer in the Senior scale of Rs.1100-1600 w.e.f. 12.7.79. Since he was drawing his pay at Rs.1200/- at the maximum of Class II grade as Assistant Hindi Officer, his pay on promotion was also fixed at Rs.1200/- in the Class II Grade with a special pay of Rs.150/-. He continued to draw this pay till his retirement on 30.4.82. The applicant wanted to get his pay fixed in the senior scale at Rs.1450/- but the respondents fixed his pay in the senior scale at Rs.1200 with special pay of Rs.50/- and reduced his pension also. This resulted into recovery of Rs.8086.80 and reduction of pension from Rs.763 to Rs.722 per month.

3. We have heard both the parties and gone through the documents very closely. It is admitted that the petitioner had put in more than 8 years of service in the class II post of Assistant Hindi Officer when he was promoted to the senior scale post of Senior Hindi Officer on 12.7.79. The contention of the learned counsel for the respondents is that out of 9 years service as Assistant Hindi Officer in Class II grade, four years' service was before he was regularly appointed to that grade. It is however admitted that the General Manager within his authorised power promoted the petitioner to the senior scale on adhoc on 12.7.79 and the Railway Board also approved this appointment in 1980. It is also admitted that he was given a charge allowance of Rs.150/- over and above Rs.1200/- the maximum of the Class II scale at which level he was drawing his pay. It is also admitted that the petitioner

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drew Rs.1200/- as basic pay plus a charge allowance of Rs.150/- with the total emoluments of Rs.1350/- continuously and uninterruptedly for a period of 3 years prior to 30th April, 1982. It is also admitted that the petitioner had no hand or complicity in getting the allowance of Rs.150/- sanctioned to him, as such charge allowance was being given to others also in similar circumstances. It is also admitted that while reducing his emoluments from Rs.1350/- to Rs.1250/- no show cause notice was given to the petitioner and the reduction of his pay was affected unilaterally.

4. In view of the aforesaid mitigating circumstances and also the fact that the UPSC had finally approved his promotion to the senior scale in 1980 even when he had not completed 8 years of regular service, we have no hesitation in finding that the emoluments of the petitioner at Rs.1350/- should not be reduced on the eve of his retirement. Accordingly, we allow the petition and quash the impugned orders No.01824512 dated 9th September 1983 and dated 10th September 1985 which are Annexures 'D' and 'E' respectively to the application and direct that the petitioner's pay and allowances should be retained at the same level and pension and death-cum-retirement benefits should be computed on the basis of his unreduced emoluments in accordance with relevant rules. There will be no order as to costs.


(H.P. BAGCHI)
JUDICIAL MEMBER

17.4.86


(S.P. MUKERJI)
MEMBER