

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2411/90
T.A. No.

199

DATE OF DECISION 11.7.1991

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| Shri K.L.Khanna | Petitioner Applicant |
| Shri S.K.Bisaria, | Advocate for the Petitioner(s) Applicant |
| Versus | |
| Union of India & ors. | Respondents |
| Shri M.L.Verma, | Advocate for the Respondent(s) |

CORAM

The Hon'ble Mr. T.S.Oberoi, Member(J)
The Hon'ble Mr. B.N.Dhondiyal, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal? *NO*

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble Mr.B.N.
Dhondiyal, Member(A))

This Original Application has been filed by Shri K.L.Khanna, under Section 19 of the Administrative Tribunals Act, 1985 praying that directions be issued to the respondents to make payment of all terminal benefits to him taking his basic pay at the time of his retirement as Rs.2375/- and not as Rs.2240/- per month. As the point involved is a short one, we proceed to dispose of this application at the admission stage itself.

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2. The applicant joined service with the respondents as Signaller on 16.3.1953 after selection by the Railway Service Commission. He was promoted as Assistant Station

Master in 1958 and continued to work as such till 10.4.1970 when, due to some medical fitness problem, he was posted as TTC in the scale of Rs.330-560. He was promoted to the grade of Rs.425-660/- on 11.9.1979, to the grade of Rs.550-700/- on 1.1.1984 and to the grade of Rs.700-900/- on 19.4.1986. He retired on 31.8.1988 while working as Chief Ticket Inspector in the grade of Rs.700-900(pre-revised). He was drawing a basic pay of Rs.2375/- at the time of superannuation.

3. The respondents have admitted these facts except that they have stated that the applicant was promoted to the scale of Rs.425-640/- on 11.1.1979 and not on 11.9.1979. At the time of his retirement his pay was erroneously fixed at Rs.2375/- per month instead of Rs.2240/- per month- a mistake corrected by the respondents on the advice of the auditor. His case was reconsidered by the Pension Adalat who found that the revised calculations of his basic pay were done correctly.

4. The applicant has reiterated that he was actually promoted to the grade of Rs.425-640/- on 11.9.1979 and if this date is accepted, all the other stepping up of salary leading to the basic pay of Rs.2375/- at the time of retirement would follow. He has also cited the case of a junior, Shri G.R.Bhatia whose pay was ^{Rs.} ~~fixed as~~ Rs.2375/- p.m on 31.8.1988. The applicant being senior to Shri Bhatia and also working in the same scale could not be given pay less than his junior. He has produced a copy of the service certificate which shows his pay at the time of superannuation as Rs.2375/- p.m.

5. The respondents have relied on the judgements*

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1. Ram Avtar Prashad Vs. Union of India: 1988(6) ATC(Pat) 220-223;
 2. M.C.Saha Vs.U.O.I.: 1988(6) ATC(Cal) 545;
 3. Nanibala Mandal Vs.U.O.I.: 1989(2) SLJ Cal 212-214;
 4. D.R.Sharma Vs.U.O.I: 1989(2) ATLT (Chand) 477

of Calcutta Bench and other Benches of this Tribunal which go to show that errors of pay fixation can be corrected at any time and such ^{errors} ~~errors~~ ^{do not} not give any prescriptive right to the employee. However, the downward revision in pay was carried out on the eve of retirement of the applicant. It had repercussions on his pensionary benefits for all times to come. This is a peculiar case where promotion from an earlier date seems to be adversely affecting the employee in fixation of his pay. We feel that the downward revision in his pay at the time of retirement should not be carried out just due to some technical flaw, particularly in view of the fact that one of his juniors was at that time getting a higher pay.

6. In the circumstances of the case, the following directions are issued:-

- I. The pay of the applicant at the time of retirement ^{bw} ~~shall~~ be taken as Rs.2375/- per month as indicated in the service certificate issued to him on 1.9.1988;
- II. The date of promotion in the grade of Rs.425-640/- ^{bw} ~~shall~~ be deemed to be 11.9.79 when he actually took over the charge; and
- III. All the terminal benefits shall be calculated on the basis of the basic pay being fixed at the time of retirement at Rs.2375/- per month.

7. The OA is disposed off as above leaving ^{bw} the parties to bear their own costs.

^{bw}
(B.N.DHOUNDIYAL)
MEMBER(A)

^{bw}
(T.S.OBEROI)
MEMBER(J)

11.7.91