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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * *

OA 768/1991

DATE OF DECISION : 23.11.91

SHRI D.P. TYAGI

....APPLICANT

VS.

UNION OF INDIA

....RESPONDENTS

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SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI S.K. SAWHNEY

FOR THE RESPONDENTS

...SHRI N.K. AGGARWAL

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant assailed the order dt. 25.4.1990 passed by Divisional Personnel Officer, Northern Railway (Annexure A-1) informing the applicant that he is not entitled to any stepping-up of the pay and any other benefit of pay fixation which the applicant has claimed on being declared medically unfit w.e.f. November, 1983. The applicant was working as Guard-B with basic pay of Rs.476 in the scale of Rs.330-560(RS) since 1.6.1983 and the increment fell ^{due} on the 1st June of every year.



After medical decategorisation, the applicant was given an alternative job on the post of WMI Grade 455-700 (RS). On being given the post of WMI, the pay of the applicant was fixed at Rs.620/-. He was allowed next increment in April, 1985 while the applicant claims that his next increment should have been due in June, 1984 as for that year, the increment was not taken into consideration while fixing the pay for the post of WMI in the grade of Rs.455-700 (RS) on 19.4.1984.

2. The applicant has claimed the relief of counting his service from 1.6.1983 to 19.4.1984 rendered by him in the post of Guard for granting him his next increment in the scale of Rs.455-700 on his absorption as Wagon Movement Inspector with a further direction to the respondents to revise the pay of the applicant from 1.6.1984 giving the benefit of arrears of pay on account of revision of pay. The respondents contested this claim of the applicant and it is stated that the present application is barred by limitation in as much as the applicant was also informed earlier in June, 1987, August, October and November, 1989 that his pay cannot be stepped up and has been rightly fixed because his pay was fixed as WMI in April, 1984 and the next increment was due to him in April, 1985. The applicant was given the pay of Rs.620 w.e.f. 1.4.1985 in the grade of Rs.455-700. It is further stated that grade of Guard in the scale of Rs.330-560 is equated to Rs.455-700. It is further stated that the

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pay of the applicant as WMI in the grade of Rs.455-700 (RS)
was as under :-

20.4.1984	600+18 P.P.
1.4.1985	620
1.4.1986	640

Thus, according to the respondents, the increment fell due in April of every year. The applicant was allowed pay of Rs.2,200 w.e.f. 16.3.1989 in the grade of Rs.1600-2660. The applicant was duly informed that he was not due for any stepping up of pay or any other benefit of pay fixation. Thus according to the respondents, the application has no merit.

3. We have heard the learned counsel at length. Regarding the plea of limitation, there is no substance in the preliminary objection raised by the respondents. In fact, the matter of fixation of pay is ^a recurring cause of action which accrues to the person on every month when he gets his pay. The applicant was trying hard to convince the authorities that by virtue of being decategorised, his pay in WMI was correctly fixed at the initial stage, but he was not given due increment taking into account the earlier service he has put as Guard. In this connection, the applicant has relied on Rule 2022 of IREM which is regarding

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reckoning service for increments. Sub Rule (b) of this Rule provides that service in another post other than a post carrying less pay referred to in clause (a) of Rule 2011 (Annexure R-15) whether in a substantive or officiating capacity, service on deputation out of India and leave other than extraordinary leave shall count for increment in the time scale applicable to the post on which the Railway servant holds a lien, as well as in the time scale applicable to the post or posts, if any, on which he held a lien, had his lien not been suspended. By the application of this rule, the contention of the learned counsel is that since the period from 1.6.1983 to 19.4.1984 shall be treated as a period spent on the post of Guard, so this has to be reckoned for the purpose of granting of increment in the scale of Rs.425-700 as Wagon Movement Inspector and the applicant was, therefore, entitled to the next increment on 1.6.1984 on his absorption as Wagon Movement Inspector in the scale of Rs.425-700 on 19.4.1984. The learned counsel has referred to chart in para 4.14 of the OA which is as follows :-

<u>Date</u>	<u>Already granted</u>	<u>Date</u>	<u>Due</u>
19.4.1984	605 + 13	1.6.1984	620
1.4.1985	620	1.6.1985	640
1.4.1986	640	1.6.1986	660

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In reply to the above contention of the applicant, the respondents in para 4.14 of the reply have stated that the pay of the applicant in the grade of Rs.455-700 (RS) was fixed as follows :-

On 20.4.1984 Rs.600+18 P.P.

On 1.4.1985 Rs.625

On 1.4.1986 Rs.640

4. It is further stated by the respondents that the applicant was promoted as WMI in the grade of Rs.1400-2300 (RPS) w.e.f. 9.1.1986 and was allowed pay of Rs.1950. Shri Joshi was subsequently promoted as WMI in the grade of Rs.1600-2660 (RPS) on 16.3.1989. Since he was drawing pay of Rs.2100 from 1.1.1989 in the grade of Rs.1400-2300 (RPS), he was allowed pay of Rs.2200 from 16.3.1989 in the grade of Rs.1600-2660 (RPS).

We have considered the whole matter, but we find that the fixation of Shri K.K. Joshi cannot be taken as an example in the case of the applicant. He was of course medically decategorised and absorbed as WMI, but the circumstances and facts in which the pay of Joshi was fixed are not same as that of the applicant. The only grievance of the applicant is that the period from 1.6.1983 to April, 1984 was not counted for grant of increment in the pay scale of Rs.455-700. In support of this, the applicant has rightly averred that 30% of the pay is to be added when a Guard is posted for stationary

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post under the extant rules from the running post. This has also been provided under Rule 913 of the Railway Establishment Manual. Further under Rule 2022* of IREC Vol.II which corresponds to FR-26, provides that the services rendered in another post other than the post carrying less pay whether in a substantive or official capacity shall count for increments in the time scale to the post on which the Railway servant holds a lien. It is not disputed that the increment of the applicant fell due on 1.6.1983 which he was granted, but after 1.6.1983, next increment was due on 1.6.1984. While fixing the pay for the post of WMI in the scale of Rs.455-700 on 19.4.1984, the period from 1.6.1983 to 9.4.1984 was not taken into account and as such the date of increment, according to the respondents, commenced afresh from April, 1984. So he was granted next increment in April, 1985 and then in April, 1986 and so on. However, after the fixation of pay of the applicant in April, 1984, he could have been given his due increment in June, 1984 or he should have been given a jump in April, 1984 which was not done.

5. The learned counsel for the respondents could not show any rule under which the fixation has been done by which when a person on account of medical decategorisation is offered a post, then the increment shall start from the date when he ultimately joins that post and the period before the joining of the post after decategorisation, the period earlier to that shall

* 2022. (F.R. 26.) Reckoning Service for Increments-

(b)(i) Service in another post, other than a post carrying less pay referred to in clause (a) of Rule 2011(F.R.15), whether in a substantive or officiating capacity, service on deputation out of India and leave other than extraordinary leave shall count for increments in the time-scale applicable to the post or which the Railway servant holds a lien, as well as in the time-scale applicable to the post or posts, if any, on which he would hold a lien had his lien not been suspended.

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not be counted for the purpose of increment.

6. In view of the above facts, we find that the objection of the limitation has no force and the plea of the respondents in not granting increment on due date in June of the year is not justified.

7. In view of the above discussion, the application is allowed. The impugned order dt. 25.4.1990 and earlier orders passed in this respect are quashed and set aside and the respondents are directed to count the services of the applicant for the purpose of increment for the period from 1.6.1983 to 19.4.1984 rendered by the applicant in the post of Guard for granting him the next increment in the scale of Rs.425-700 on his absorption as WMI. The respondents are also directed to revise the pay of the applicant from 1.6.1984 and also give him all the consequential benefits of arrears etc. However, the parties are left to bear their own costs.

(J.P. SHARMA)
MEMBER (J)

28.11.91

(D.K. CHAKRAVORTY)
MEMBER (A)

28/11/89