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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO.2404/2004
MA.2389/2006

New Delhi this the 26th day of March, 2007

Hon'ble Shri L.K. Joshi, Vice Chairman (A)
Hon'ble Shri Mukesh Kumar Gupta, Member (J)

Banarasi Dass
Aged about 80 years
Son of Late Shri Ganga Sahai
RTD Sub-Head, Northern Rly.
Dy/CAO/T/ New Delhi.

Resident of A-25, East Krishna Nagar,
Delhi-110051

... Applicant

By Advocate: Shri H.P. Chakaravorty)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi
2. The Financial Advisor &
Chief Accounts Officer
Northern Railway, Baroda House,
New Delhi.
3. The Deputy Chief Accounts Officer
(Traffic Accounts) Northern Railway
State Entry Road, New Delhi.

... Respondents

(By Advocate: Shri V.S.R. Krishna)

O R D E R (oral)

Hon'ble Shri Mukesh Kumar Gupta, Member (J)

Applicant challenges communication dated 31st October, 2000
rejecting his representation dated 16th September, 2000 as well as other

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earned by pre-86 retirees should be taken into account for the purpose of notional fixation. Such of those pre-86 retirees who retired after having drawn pay at the maximum of the scale as per IIIrd CPC for a year or more will be entitled to an additional increment as per IVth CPC scales as on 1.1.1986(proviso 3 of rule 8 *ibid*). Similarly, for those who have received an *ad hoc* increment on their stagnation at the maximum for two years or more at the time of their retirement will also be entitled for an additional increment as on 1.1.1986(Proviso 4). This in effect will mean that pre-86 retirees will be treated as if they were in service on 1.1.1986 for the purpose of notional fixation of pay so as to ensure complete parity (Page 20). Respondents, in similar circumstances allowed the benefit to Sh. Gulzar who, retired on 31st October, 1981 by issuing necessary orders which are placed on record vide MA 2389/2006. No reply has been filed to said MA. Perusal of the records shows that said Sh. Gulzar was allowed the benefit of notional increment on notional basis. A plea raised by the applicant vide para 4.10 on this aspect has not been specifically controverted. Shri H.P. Chakravorty, learned counsel for applicant in the circumstances contended that applicant is entitled to similar treatment.

4. The respondents contested the OA stating that application is time barred and cause of action arose in the year 1982 when he attained age of superannuation. Clarification issued in the year 2000 is not applicable as he retired in the year 1982. In any case, applicant was not entitled to the benefit of earlier communication dated 27.07.1983 as he had already attained the age of superannuation.

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subsequent communications dated 23-11-2000, 7-4-2004 & 14-6-2004 seeking necessary correction in Pension Payment order and take into consideration stagnation increment on notional basis.

2. Admitted facts are that applicant, initially joined as LDC, retired as Senior Sub Head in the grade Rs.550-750 on 31.8.1982 on attaining the age of superannuation. In the grade of Sub Head carrying pay scale of Rs.425-700, he was promoted on 01.04.1974 and reached the maximum of said scale on 01.04.1979. He was further promoted to the post of Senior Sub Head in the scale of pay Rs. 500-750 on 01.04.1982, and his pay was fixed at Rs.725/- without giving any benefits of his three years stagnation in the lower grade. He made representation to concern authorities seeking grant of notional stagnation increment, which was rejected by the aforesaid mentioned communication dated 31.10.2000 by the Traffic Accounts Office. Another communication was also issued to the same effect on 23.11.2000. He made further representations, which too were rejected on 07.04.2004 and 14.06.2004.

3. The grievance raised is that vide RBE No 8 of 2001 dated 12.01.2001, Railways circulated the Department of Pension and Pensioners' Welfare, Ministry of Personnel, Public Grievance and Pensions OM dated 19.12.2000, wherein a query was raised whether stagnation increment is to be taken into account while fixing the pay of retired government servant on notional basis. In answer, it was clarified that in so far as employees who retired prior to 1.1.1986, their pension is required to be updated by fixing their pay as on 1.1.1986 by adopting the same formula as for serving employees and as per the CCS (RP) Rules. Stagnation increment if any

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5. We have heard learned counsel for parties and perused the pleadings carefully. Shri H.P. Chakravorty, learned counsel for applicant pointed out that as per rules and instructions in vogue, applicant was entitled to stagnation increment after completing two years period. It is not disputed that applicant reached the maximum of the pay scale of Rs. 425-700 on 01.04.1979 and remained in the said basic pay till 31.03.1982. In other words, on completion of two years at the maximum scale, he was entitled to one stagnation increment of Rs. 25/- per month, which was denied to him without any just cause. Applicant was promoted only on 1st April 1982, and therefore, he was entitled to have his pay fixed in the pay scale of Rs. 550-750/-, at Rs. 750, instead of Rs. 725/-.

6. On bestowing our careful consideration, we find that by the aforesaid OM dated 19.12.2000, which was issued in implementation of Government decision on the basis recommendation of the 5th CPC regarding revision of pension, pensioners/employees retired prior to 01.01.1986 were allowed the benefit of additional increment for the purpose of "notional fixation of pay so as to ensure complete parity." It is not disputed that the similarly situated person namely, Shri Gulzar, who also retired from Railways, EME (F) on 31st October, 1981, made an application with reference to the aforesaid Railway Board's letter and RBE, on 30-10-01 and ultimately vide revised PPO dt. 11-12-2001 he was allowed the benefit of award of stagnation increment. In the circumstances, we do not find justification in treating the applicant differently. How to calculate the period of two years has been clarified by the concerned authorities, as available at page 14 of the paper book. The clarification sought was "the date from which the period of



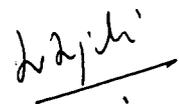

two years should be calculated?" and the answer was "the two years' period should be calculated from the date of reaching the maximum of the pay scale, e.g, if 'A' reaches the maximum of his scale, w.e.f 1-5-68, he will be entitled to personal pay w.e.f. 1-5-1970." The said concept is equally applicable to grant of stagnation increments. It is not in dispute that the applicant reached the maximum of scale on 1-4-1979 and, therefore, he was entitled to stagnation increment on 1-4-1981. He was promoted only on 1-4-1982. In the circumstances, there was no justification in allowing him to remain stagnated at the maximum of the scale for a period of three years. Plea of limitation as raised is not justified in terms of law laid down in the case of M.R.Gupta vs. U.O I. 1995 (5) Scale 29.

7. In view of discussion made herein-above, the present application is allowed and respondents are directed to allow one stagnation increment notionally in terms of Railway Board OM dated 12.01.2001 (Supra). We make it clear that applicant will neither be allowed any arrears of pension nor retiral terminal benefits. He would be entitled to only revised pension from the date of filing present OA i.e. 1-10-2004.

8. The aforesaid exercise shall be completed within a period of two months. No costs.



(Mukesh Kumar Gupta)
Member (J)



(L.K.Joshi)
Vice Chairman (A)