

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 3117/92

Decided on 29.6.99.

Janak Bahadur Chand & Ors. Applicants

(By Advocate: **Shri B. S. Maini**)

Versus

UDI & Ors. Respondents

(By Advocate: **Shri R. P. Agarwal**)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or Not? YES

2. Whether to be circulated to other outlying
benches of the Tribunal or not? No.


(S.R. ADIGE)
VICE CHAIRMAN (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.3117/92

New Delhi: this the 29th day of June, 1999.

HON'BLE M.R.S.R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Shri Janak Bahadur Chand,
S/o Shri Nandan Singh,
Booking Supervisor,
Northern Railway,
Ambala Cantt.

2. Shri Ramesh Chandra Pant,
S/o Shri B. R. Pant,
Booking Supervisor,
Northern Railway,
Ambala Dist.
Saharanpur.

..... Applicants.

(By Advocate: Shri B.S. Maini)
Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway,
Ambala Cantt.

..... Respondents.

(By Advocate: Shri R.P. Agarwal)

ORDER

HON'BLE M.R.S.R. ADIGE, VICE CHAIRMAN (A).

Heard both sides.

2. Applicants' prayer for salary fixation at Rs.1640/- and Rs.1800/- respectively in the revised scale of Rs.455-700/- w.e.f. 1.1.86 consequent to the 4th Pay Commission Reports recommendations based on Read Reckoner (Annexure-A3) can succeed only if they

can establish that they were in that scale on 1.1.86 which is the operative date. However, the promotion order dated 26.8.86 (Annexure-A2) makes it clear that they were promoted to the scale of Rs.455-700 only after taking charge pursuant to that order, and it is only thereupon that their pay was fixed at Rs.560 and Rs.620/- respectively in the scale of Rs.455-700. Prior to 26.8.86 they were only in the scale of Rs.425-640/- (applicants themselves admit this position in para 4.5 of the OA) and as they were not drawing Rs.560/- and 620/- respectively in the scale of Rs.455-700 on 1.1.86, their pay cannot be fixed at Rs.1640/- and Rs.1800/- respectively in that scale in terms of the ready reckoner. This legal position holds good inspite of the fact that the two scales of Rs.425-640 and Rs.455-700 were merged consequent to the 4th PCR's recommendations w.e.f. 1.1.86.

3. Shri Mainee has placed reliance on letter dated 19.8.97 (Annexure-A7) in which reference has been made to Railway Board's letter dated 5.2.87, but as pointed by respondents' counsel, the letter dated 5.2.87 is applicable to merged cadres which is not the case here.

4. Reliance has also been placed by Shri Mainee on letter dated 24.8.87 (Annexure-A8) to contend that staff promoted from Rs.425-640 to Rs.455-700 in between 1.1.86 to 25.9.86 had to suffer a substantial reduction in their emoluments, but there is no such averment in the OA that applicants had to suffer any such reduction in emoluments.

5. Reliance has also been placed on two orders

of CAT PB. One is dated 11.4.97 in OA No. 1473/94

Shri Mohinder Singh Sharma Vs. G.M. Northern Railway, but that order does not appear to have noticed the fact that Shri M.S. Sharma was promoted to the scale of Rs. 455-700 only after 1.1.86 i.e. on 25.3.86, and before 1.1.86 he was only in the scale of Rs. 425-640. Hence that order is per incurium.

6. The other order is dated 16.3.98 in OA No. 3079/92 Shri Sharvan Kumar Vs. G.M. Northern Railway passed by this very Bench. In that judgment, while the relief prayed for was not granted, the impugned order was quashed in the background of the fact that respondents had passed an order reducing applicant's pay to his detriment and that too with retrospective effect, without giving them a reasonable opportunity of being heard, and had thus violated the principle of natural justice.

7. No doubt the present case also suffers from the same lacuna, but the question remains whether issue of a show cause notice will lead to any different result. We do not think so, for the reason that rectification of applicants' salary by the impugned order is otherwise legally in order, because as we have seen above, they came into the scale of Rs. 455-700 only on 26.8.86, and on 1.1.86 which is the operative date they were only in the scale of Rs. 425-640/-.

8. In the result we see no good grounds to interfere in the OA which is dismissed. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J).

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN(A).