

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.3252/92

New Delhi this the 25th Day of March, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Sh. H.R. Khokhar,
S/o late Sh. Krishan Gopal,
R/o 32, Tibbia College,
Karol Bagh, New Delhi.

Applicant

(By advocate Sh. K.N.R. Pillai)

versus

1. Union of India,
through the Secretary,
Ministry of Railways
(Railway Board),
New Delhi.
2. The General Manager,
Northern Railway,
New Delhi.
3. Divisional Railway Manager,
Delhi Division,
Northern Railway,
State Entry Road,
New Delhi.

Respondents

(By advocate Sh. Rajesh)

ORDER

Delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

This O.A. has been filed by Sh. H.R. Khokhar who retired as Senior Loco Inspector from the Northern Railway has challenged letters dated 13.1.1992 and 14.1.1992 rejecting his representation dated 23.8.1991 for stepping up of his pay with reference to higher pay drawn by juniors. Having joined the Railways as Trainee Foreman Grade-A on 2.9.1950, the applicant had through successive promotion reached the grade of Driver-8 on 7.6.1970. He was promoted to a Supervisory post on 12.10.1972. After the revision of pay scales on the basis of the recommendations of the 4th Pay

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21

Commission, his pay was fixed in the grade of Rs. 2000-3200 at Rs. 2750/- w.e.f. 1.1.1986. He was promoted to the next higher grade in the scale of Rs. 2375-3500/- on 4.12.1987 and his pay was fixed at Rs. 2975/-. At the time of his retirement on 31.12.1988, his basic pay was Rs. 3050/-. He is aggrieved that one of his juniors, namely, Sh. S.K. Bajpai who was promoted to the post of Driver on 7.2.1977, almost 7 years after the applicant in the grade of Rs. 1640-2900 and later on promotion as Supervisor on 13.1.87 fixed at Rs. 3200/- in the pay scale of Rs. 2000-3200/-. He has prayed for a direction to the respondents to consider stepping up of his pay from 13.1.1987 in the scale of Rs. 2000-3200 with reference to the higher pay granted to Sh. S.K. Bajpai of the Allahabad Division in terms of Railway Board's letter dated 16.9.1988 and also consequential benefits including revision of pension and other retirement benefits.

In the counter filed by the respondents, the main averments are these. The applicant was promoted from Driver-B to Power Controller Grade Rs. 335-425 whereas Sh. S.K. Bajpai was promoted from Driver-C to Driver-B, Driver-A and Driver-A Special. It was only thereafter that he was promoted to the post of ATFR in the grade of Rs. 2000-3200. The conditions laid down in Railway Board's instructions dated 16.9.1988 and 14.9.1990 for grant of stepping up of his pay are not fulfilled in this case as their promotions were not from the identical jobs. Rule 1316 of the Indian Railway Establishment Code, Volume-II and the clarifications given in President's decision No.3 clearly provide for stepping up of the pay,

both the junior and senior employees should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre, the scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical and the anomaly should be directly as a result of the application of Rule 1316 and not due to the junior being given advance increments or accelerated promotion etc.

Heard the learned counsel for the parties. The learned counsel for the applicant has drawn our attention to the judgement of this Tribunal dated 22.12.1992 in O.A.No.469/92 in which all these issues were considered and necessary relief was given to the similarly situated applicants. S.L.P. filed against the judgement of the Tribunal in the Supreme Court was also dismissed. The learned counsel for the respondents has reiterated that Rule 1316 of the Indian Railway Establishment Code clearly debarred such cases of stepping up being considered as the posts in which the applicant and Sh. S.K. Bajpai had been promoted or appointed were not identical and they did not belong to the same cadre. This issue was specifically considered by the Tribunal in O.A.No.469/92 and the following observations were made:-

"It may be that the channel may be different but ultimately, both of them belong to supervisor staff. The intervening channel will not affect the seniority. Even if the said Bajpai belongs the different unit, the unit is not synonymous with the cadre. When there was a combined seniority and the promotional post is a higher, and both of them became Supervisors, the applicants shall also be entitled to the benefit of the said circular which was earlier rightly enforced by the Railway Board, and even otherwise, the applicant could not be deprived of the said benefit without giving an opportunity of hearing to the applicant."

23

Accordingly, this application is allowed and the impugned orders dated 13.1.1992 and 14.1.1992 are hereby quashed. The applicant is entitled to the benefit of stepping up of pay as envisaged in the Railway Board's Instructions dated 16.9.1988. After stepping up of his pay with effect from 13.1.1987 in the scale Rs. 2000-3200 and from the date of promotion in the scale Rs. 2375-3500 with reference to the higher pay granted to Sh. Bajpai of Allahabad Division, his pension and retirement benefits shall also be ~~recalculated~~. The required orders shall be passed within three months from the date of communication of this order.

No costs.

B. N. Dhoundiyal 25/3/96
(B. N. DHOUNDIYAL)
MEMBER (A)

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