

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
.....

D.A. No.1440/93.

New Delhi, this the 18th day of April, 94.

SHRI J.P. SHARMA, MEMBER(J).

Shri R.P. Sharma,  
S/o Late Shri K.L. Sharma,  
Retired Assistant Transportation Manager,  
Northern Railway, Baroda House,  
New Delhi, R/o 298/GH 5 & 7,  
Near Meera Bagh, Paschim Vihar,  
New Delhi-110041. ...Applicant

By advocate : Shri S.K. Sawhney.

Versus

Union of India, through  
General Manager,  
Northern Railway,  
Baroda House, New Delhi. ...Respondent

By advocate : Shri N.K. Aggarwal,  
though not present.

ORDER

The applicant retired as Assistant Transportation Manager, Northern Railway. He has the grievance that the General Manager by the order dated 1-4-92 (annexure A-I) has re-fixed the pay of the applicant ignoring the element of his promotion on officiating basis as SWMI in the grade of Rs.2375-3500. He has, therefore, prayed for quashing of the impugned order with the direction to the respondent to continue to allow the applicant in his pay at Rs.3,050 on his promotion to group 'B' post w.e.f. 7-10-88 and further increments when due be granted thereafter. He has

↓

also prayed for the refund of the recovery made in pursuance to the impugned order of 1-4-92. He has also claimed interest on the amount.

2. The respondent contested the claim of the applicant. It is stated <sup>in the reply</sup> that the pay of the applicant was erroneously fixed vide letter dated 27-11-91 as the applicant was promoted in the grade of Rs.2375-3500 against a work-charge post for P.O.R.S. work temporary on ad hoc basis by the letter dated 6-9-88. However, the applicant was subsequently empanelled by the order dated 4-10-88 in group 'B' service in the scale of Rs.2000-3500. The pay of the applicant in the group 'B' service has to be fixed taking into account the scale of pay of his substantive grade of Rs.2000-3200. As such, the anomaly has been removed and the pay of the applicant has been rightly fixed by the impugned order.

3. I heard the learned counsel for the applicant and perused the records. None appeared on behalf of the respondent, so the matter is being decided on the basis of pleadings on record. The case of the applicant is that the pay of the applicant has to be fixed under rule 1316 of Indian Railway Establishment Code Vol. II. The relevant rule is quoted below :

" Notwithstanding anything contained in these rules where a railway servant holding a post in substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those



attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued. "

The learned counsel has also placed reliance on the Railway Board order of 27-7-1967 on the point that if a railway servant who happens to be promoted to different post carrying higher responsibilities on the same date should be regulated after the introduction<sup>of</sup> rule 1316 w.e.f. 1-4-1961. He should be deemed to have been promoted first to the lower post and pay fixed under rule 1316 (R) <sup>Le</sup> provided it is certified that he would have held this post for a period of not less than 22 days but for his promotion to the higher post. He should subsequently be promoted to higher post and pay fixed under rule 1316 with reference to pay arrived at by fixing on the first promotion.

4. I have considered the contentions of the learned counsel but the promotion of the applicant has not been against a substantive vacancy. Annexure A-II is the promotion order dated 6-9-88. It goes to show that the applicant SWMI grade Rs.200-3200 was appointed to officiate in grade Rs.2375-3500 against work-charge post on temporary and ad hoc basis upto 20-12-88 or upto the date the PQRS work is over, whichever is earlier. It should be made clear to Shri Sharma (applicant) that

though these ad hoc arrangements do not bestow upon him any right to seek permanent absorption in this grade or seniority etc. over his erstwhile seniors. He will draw his officiating pay of Rs.2,900 per month in the grade of Rs.2375-3500 from the date he takes over his independent duty. Consequent to this, an order dated 10-1-1989 was issued fixing the pay of the applicant in group 'B' w.e.f. 7-10-88 at Rs.3,050 giving him one increment of Rs.75 on the officiating pay of SWMI grade Rs.2375-3500, where he was getting Rs.2900 plus Rs.75 and the pay in the group 'B' fixed at Rs.3,050. There has been certain representations of some senior persons which led to the passing of the impugned order. The applicant in his representation dated 2-4-92 has admitted that his promotion was on a work-charge post on Delhi division. The pay of the applicant was rightly fixed in view of the fact that the applicant was working on work-charge post for a limited period of about a month which cannot give him the benefit of the fixation of pay in the scale of Rs.2375-3500 while fixing the pay in the group 'B' in the scale of Rs.2000-3500. The appointment letter itself is clear that the applicant will not draw any benefit by that stop-gap arrangement either for seniority or for regularisation etc. The impugned order, therefore, does not call for any interference. The application, therefore, is dismissed as devoid of merit. No costs.

*J. P. Sharma*

( J.P.SHARMA )  
MEMBER (J)

'KALRA'