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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

O.A.No.553 of 1993

New Delhi, this the 5th day of April, 1994.

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

Shri J.C.Chawla
S/O Shri Teju Ram
Retd.Chief Parcel Supervisor
Northern Railway,
Railway Station, Delhi Jn. Applicant
(through Mr G.D.Bhandari, Advocate).

vs.

1. Union of India,
Through the General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi. Respondents.
(Shyam Moorjani, Advocate).

Order(oral)

(by Hon'ble Mr B.N.Dhoundiyal)

This application has been filed by
Shri J.C.Chawla, Retired Chief Parcel Supervisor,
Northern Railway. The grievance of the applicant
is that the respondents have refused to step-up
his pay, on his promotion in the Grade of Rs.425-640
as Parcel Clerk so as to bring it at par with his
juniors who were drawing higher pay and the anomaly
continued in next higher grades, resulting the
applicant receiving a pay at Rs.2120/- at the time of
his retirement on 31.12.1986 against his entitlement
of Rs.2375/-.

2. The applicant had agitated this matter
before the Labour Court twice. In its judgment
dated 10.7.1987, the Presiding Officer of the Labour
Court noted that Shri Prem Chand Goel and Shri Suresh
Chand were admittedly junior to the applicant but had

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earlier officiated in higher scale and had been given benefit thereof in fixation of pay. It was also held that the plea of the management that even junior person may be given higher pay for reasons of local officiation in relation to their seniors is clearly violative of principles of natural justice and can be an instrument of arbitrariness, favouritism and discrimination. It was also observed that the Management was not able to cite any rule whereby the officiation by junior persons could justify payment of higher pay to the junior officials in relation to their seniors. They allowed the claim of the applicant, computed till the time of ^{LN} ~~existing~~ filing applications, ^{LN} ~~at that~~ ~~post.~~ However when the benefit of stepping up was not continued after 1985, the applicant again approached the Labour Court who took the view that arrears as computed by the applicant at the time of filing the earlier application had already been allowed and in case he had further claims, it was incumbent upon him to submit application under Section 10 of the Industrial Disputes Act. The applicant has approached this Tribunal with the request that the respondents be directed to re-fix his pay, firstly in the grade of Rs.425-640 w.e.f.1.5.81 @ 620/- and grant the consequent benefits of re-fixation of pay in the next higher grade of Rs.550-750 and Rs.700-900 and grant him the pay of Rs.2375/- in the grade of Rs.2000-3200 due to him.

3. I have heard the learned counsel for the applicant and perused the records. The learned counsel for the applicant has drawn the attention of the Court to the revised instructions regarding adhoc appointment which provide that:

" Where adhoc appointment is by promotion of the officer in the feeder grade, it may be

done on the basis of the seniority-cum-fitness basis..."

He has also drawn attention to the observations of the Supreme Court in case of K.K.Khosla and another vs. State of Haryana and others (1990) 12 ATC 754, wherein it has been held that promotion even during the period of probationary period would be valid in the absence of any rule to the contrary. The only ground, on which ^{that} adhoc promotion was denied to him was ~~he~~ ^{that} he was at that time still under probation.

4. Whether a senior should be allowed the benefit of stepping up in such a case has been considered by this Tribunal in a number of cases and it has been held that stepping up the pay under F.R.27-C is in order when juniors are placed at higher stage of pay on the basis of having put in adhoc service. In a judgment of Calcutta Bench of this Tribunal reported vide (1988) 7 CAT 224- Anil Chandra Das and another vs. Union of India and others, a similar view was held. In that case also, the juniors were fixed at a higher [/]pay by virtue of adhoc promotion. The Tribunal decided that not having had the benefit of adhoc promotion, the senior should not be at a disadvantage in pay fixation, and, therefore, directed the respondents to step up the pay of the applicant therein at par with his juniors. This was followed in a number of cases and the decision was upheld by the Supreme Court in S.L.P.No.13994 of 1991, decided on 22.8.1991.

5. Re-iterating the views expressed in the earlier judgments of this Tribunal, as also by the Labour Court, ^{that} ~~the~~ the applicant is entitled to succeed. However, he has approached this Tribunal at a very belated stage and it would not be possible at this point of time to give

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him relief from 1985 onwards.

6. The application is partially allowed with following directions to the respondents:

- (a) The notional ^{pay} ~~drawn~~ by the applicant shall be revised so as to bring it at par with his juniors and he shall be allowed the benefit of increments on pay so fixed till the date of his retirement.
- (b) His pension and retirement benefits shall be re-calculated on the above basis.
- (c) Payment of arrears shall be made only for the revised pensionary benefits within three months of communication of this order.
- (d) No arrears shall be paid for the pre-retirement period.

There will be no order as to costs.

B. N. Dhondiyal
(B. N. Dhondiyal)
Member (A)

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