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(Open Court)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 22nd day of October, 2003.

Original Application No. 1402 of 1997.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.  
Hon'ble Mr. D.R. Tiwari, Member- A.

Roshan Lal Agnihotri S/o Sri S.N. Agnihotri  
R/o 210-E Block, Panki, Kanpur.

.....Applicant

Counsel for the applicant :- Sri Satish Dwivedi  
Sri Anil Dwivedi

V E R S U S

1. Union of India through the General Manager,  
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Allahabad.
3. The Divisional Personnel Officer,  
Northern Railway, Allahabad.

.....Respondents

Counsel for the respondents :- Sri A.C. Mishra

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A filed under section 19 of Administrative Tribunals Act, 1985, the applicant has challenged the order dated 17.04.1995 (Annexure-1) by which basic pay of the applicant has been reduced alleging that two increments were wrongly given to the applicant on 01.04.77 in the pay scale of Rs. 330-560.

2. The facts of the case are that applicant requested for voluntary retirement from service when he was serving as Station Master . By order dated 27.07.1994 the request of the applicant for voluntary retirement was accepted



w.e.f 13.09.1994 after expiry of three months notice. The applicant requested for his retiral benefits. He was issued service certificate on 11.11.1994 wherein pay on leaving the service was shown as Rs. 2300/- whereas on basis of last pay applicant was paid Rs. 2420/- as pay. Subsequently the impugned order dated 17.04.1995 was passed alleging that there was wrong fixation of pay as two increments were granted on 01.04.1977 when his pay was Rs. 452/- and 464/-. The submission of counsel for applicant is that before passing the aforesaid order, the applicant has not been given any opportunity of hearing and the pay of the applicant was reduced after 17 years without disclosing any reason. The counsel for the applicant has placed reliance on the judgment of Hon'ble Supreme Court in case of Bhagawan Shukla Vs. U.O.I and others (12) Supreme Court Service Rulings, 412.

3. We have considered the submissions made by Sri Satish Dwivedi, learned counsel for the applicant and perused the impugned order. On perusal of the order dated 17.04.1995 it is clear that though respondents have claimed that there was mis-take in fixing the pay on 01.04.1977 in pay-scale of Rs. 330-560 and two increments i.e. at the stage of 452/- and 464/- were wrongly given. Strangely in this order, the fixation of pay has been shown after 1979 but no light has been thrown how the mis-take occurred in 1977 in scale of Rs. 330-560. If the respondents could show pay fixation on 15.12.1979<sup>and thereafter</sup>, they could also explain the mis-take in detail with regard to earlier part of the service which has not been done. It is not disputed that the order has been passed without given any opportunity of hearing. The Hon'ble Supreme Court in case of Bhagawan Shukla (Supra) has held as under :-

"We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970

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at Rs. 190/- p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs. 181/- p.m from Rs. 190/-p.m. in 1991 retrospectively w.e.f 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee, suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.07.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error on dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.09.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.07.1991 reducing the basic pay of the appellant from Rs. 190/- to Rs.181/- w.e.f 18.12.1970."

4. The judgment of Hon'ble Supreme Court is squarely applicable to the facts of the present case. The basic pay of the applicant has been reduced after about 17 years without giving opportunity of hearing. His pension has also been effected. In the circumstances, the applicant is entitled for reliefs.

5. For the reasons stated above, the order dated 17.04.1995 (annexure- 1) is quashed. The applicant shall be entitled for retiral benefits on basis of the pay Rs.2420/- which was paid to him at the time of retirement. The pension of the applicant shall be re-calculated and shall be paid with

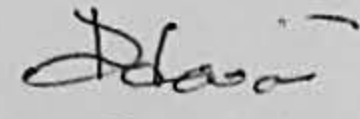
*and over benefits*


*[Signature]*

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arrears within a period of three months from the date of communication of this order.

6. There will be no orders as to costs.

  
Member- A.

  
Vice-Chairman.

/Anand/