

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ORIGINAL APPLICATION NO. 642 OF 1998

ALLAHABAD, THIS THE 2nd DAY OF Jan, 2006.

HON'BLE MR. K.B.S. RAJAN, MEMBER-J
HON'BLE MR. A.K. SINGH, MEMBER-A

Hanuman Prasad, S/o Late Sri Binda Prasad, R/o
C/177/360, Ilahi Bagh, Gorakhpur, Ex-C.T.C.I.
(Rs.2375-3500).

.....Applicant.

(By Advocate Shri B.B. Tiwari)

V E R S U S

1. Union of India, through the General Manager, N.E. Railway, Gorakhpur.
2. General Manager (Personal), N.E. Railway, Gorakhpur.

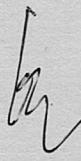
.....Respondents

(By Advocate: Sri K.P. Singh)

O R D E R

HON. MR. K.B.S. RAJAN, J.M.

Stepping up of pay is the subject matter in this case. The applicant Shri Hanuman Prasad stood senior in the seniority list of A.T.C.I. and subsequently in the grade of T.C.I., Grade-III as well as Grade-II to some of his juniors namely, Vinod Kumar, S.B. Singh and R.P. Modi. Seniority list dated 23.7.1973 and of 1982 (Annexure A-2 and A-3) refer. Of the juniors, Shri Vinod Kumar and R.P. Modi moved the Patna Bench of the Tribunal for stepping-up of their pay on the ground that one Shri N.P. Singh, who was junior to them, had been given higher pay scale on promotion in T.C.I., Grade-I w.e.f. 17.7.1981. That O.A. 95/87 was



decided on 14.8.1989 and according to the same, both Vinod Kumar and R.P. Modi being senior to N.P. Singh were directed to be afforded their service benefits. By implementing the aforesaid order, respondents have granted higher pay scale of Rs.700-900 to Shri R.P. Modi w.e.f. 17.7.1981. However, it was stipulated that he would be eligible for arrears of pay of T.C.I., Grade-I from the date actually he assumed duty in that grade. Order dated 4.9.1990 refers.

2. Vide order dated 7.5.1996, ^{also} ~~one~~ Shri S.B. Singh was granted higher pay scale of Rs.700-900 w.e.f. 17.7.1981. Shri S.B. Singh has been shown junior to the applicant in the seniority list published in 1973 and also in 1982. On the basis of the order of stepping-up of pay of Shri S.B. Singh, the applicant has filed this O.A. claiming the following relief :-

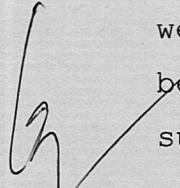
"(i) to issue an order or direction setting aside the order dated 06.12.1997 issued by General Manager (Personal), N.E. Railway, Gorakhpur.
 (ii) to issue an order or direction commanding the respondents to give proforma fixation of pay in scale of Rs.700-900 w.e.f. 17.7.1981 in pursuance of office order dated 7.5.1996 issued by General Manager (Personal), N.E. Railway, Gorakhpur and further respondents may be directed to give consequential benefits in scale of Rs.700-900 w.e.f. 1.1.1984 and in scale of Rs.2375-3500 w.e.f. 1.3.1993 along with 18% interest."

3. The respondents have contested the O.A. According to them, the applicant could not qualify in the selection for the post of T.C.I. grade-I in the year 1981, again in 1983 and it was only on restructuring w.e.f. 1.1.1984 that by a modified selection proceeding, the applicant was promoted as T.C.I., Grade-I in the scale of Rs.700-900. However, as early as in 1983, his two juniors R.P. Modi and S.B. Singh qualified in the selection and thus, their

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position in T.C.I., Grade-I, ~~he~~ is higher than that of the applicant. Hence, the applicant is not entitled to the relief claimed.

4. Arguments were advanced and documents perused. The claim of the applicant is pay parity with his juniors w.e.f. 17.7.1981. The said parity is based on the prescribed rules that the juniors were drawing more pay compared to the senior. Admittedly, the applicant is senior to R.P. Modi and S.B. Singh. By the order of the Patna Bench in the case of Vinod Kumar (supra), both Vinod Kumar and R.P. Modi were held to be senior to N.P. Singh, who was promoted on 17.7.1981 to the post of T.C.T., Grade-I. Though on that date (17.7.1981) both, Vinod Kumar and Shri R.P. Modi were not promoted as T.C.I., Grade-I, yet by virtue of promotion of the junior, these two were granted proforma promotion vide order dated 4.9.1990 and 7.5.1996. When the applicant sought parity of pay with his juniors, the same was refused on the ground that the applicant could not qualify in the selection for the post of T.C.I., Grade-I in 1983. This argument is untenable. Admittedly, the applicant is senior to Shri Vinod Kumar, Shri R.P. Modi, Shri S.B. Singh and Shri N.P. Singh. It was Shri N.P. Singh, who was granted higher pay scale w.e.f. 17.7.1981. However, later on w.e.f. the same date Shri Vinod Kumar, Shri R.P. Modi and Shri S.B. Singh were extended the same benefits under proforma promotion. On the crucial date of 17.7.1981, these three did not qualify in the selection for T.C.I., Grade-I. Yet, these three were granted the higher pay scale w.e.f. 17.7.1981. Equally is the fact that the applicant too did not qualify in the selection for the post of T.C.I., Grade-I on 17.7.1981. Whatever good grounds were available for placing the other three juniors in the higher pay scale are available with the applicant as well and yet the applicant has been denied this benefit. The qualifying in the selection at a subsequent date was not the main reason for affording

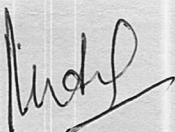


the higher pay scale w.e.f. 17.7.1981 in respect of Shri Vinod Kumar, Shri R.P. Modi and Shri S.B. Singh. As such, that the applicant did not qualify in the 1983 selection cannot be a ground for rejecting his claim for stepping-up of pay w.e.f. 17.7.1981 at par with his juniors. Thus, the impugned order dated 6.12.1997 is liable to be quashed and set aside and accordingly, we order so.

5. In the result, the O.A. is allowed. It is declared that the applicant is entitled to fixation of pay w.e.f. 17.7.1981 at appropriate stage on the basis of his pay earlier drawn in the grade of Rs.700-900/ 2000-3200 and further higher pay scale as provided to his junior Shri R.P. Modi and S.B. Singh vide order dated 4.9.1990 and 7.5.1996 respectively. It is, however, made clear that the applicant shall not be entitled to arrears of pay and allowance for the period he did not assume the respective posts.

6. The applicant is already retired and as such, the above order shall be complied with, within a period of four months from the date of receipt of a copy of this order.

No costs.


A.M.


J.M.

Asthana/