

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO.336 OF 2004

ALLAHABAD THIS THE 25th DAY OF JANUARY, 2007

HON'BLE MR. M. JAYARAMAN, MEMBER-A

N.C. Bhadra, Aged about 62 years, S/o Sri J.N.Bhadra, R/o A/297/1, Rajendra Nagar, Izzatnagar, Bareilly.

.....Applicant

(By Advocate Shri T.S. Pandey)

V E R S U S

1. Union of India, through General Manager, N.E.R. Gorakhpur.
2. D.R.M., N.E.R., Izzatnagar, Bareilly.


.....Respondents

(By Advocate: Sri K.P. Singh)

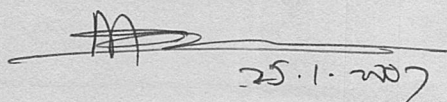
O R D E R

Heard Sri T.S. Pandey, learned counsel for the applicant and Sri K.P. Singh, learned counsel for the respondents.

2. In this O.A., the applicant has prayed for issue of suitable direction to the respondents to pay him the arrears of Rs. 49678/- together with 12% interest in pursuance of the respondents office letters dated 1.2/3.2003 and 27.8.2003.



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3. The brief facts of the case are that the applicant applied for the post of Electrical Signal Maintainer (in short E.S.M.) in March, 1961 in North Frontier Railway and the same was considered and he was asked to undergo the training for the post of E.S.M. in the pay scale of Rs. 100-185/-. He was medically examined and declared fit and appointment letter dated 14.1.1961 was issued and he was posted under Chief Signal Telecom Engineer/Centralized Traffic Control Kursuong, North Frontier Railway. After completion of the training, he was directed to join in Maintainer Signal Workshop, Hawarh, North Eastern Railway and he complied and joined on 27.1.1961. After training, he was asked to appear before the Selection Board on 27.7.1961. Accordingly, he reported to the Chief Signal Traffic Engineer, Kursuong, North Frontieir Railway for further posting, but due to China aggression in the year 1961, the construction work was postponed on North Frontier Railway and thereafter the applicant was sent to Central Railway, Bombay for further posting. He was provided four months open line training by the Central Railway (Administration) and posted as E.S.M. Gr.I in the pay scale of Rs. 175-240/- on 4.5.62. He was again transferred to N.E.R., Gorakhpur vide order dated 16.11.1963. He appeared for suitability test for the post of Asstt. Signal Inspector in the pay scale of Rs. 205-280/- held on 30.1.1971 and subsequently on 23.7.1971. He was accordingly promoted vide order dated 16.10.1971 and


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was in due course promoted on the post of Senior Section Engineer (Signal) on which post he retired on 31.12.2001. Since the applicant felt that his seniority on different promotional posts were illegally withheld by the Railway Administration between the period from 1961 till his retirement, he represented the matter for payment of arrears and issue notional promotion order. The respondent no.1 namely the General Manager, N.E.R., Gorakhpur vide memorandum dated 1.3.1996 indicated the arrears to be paid for the period from 21.5.1961 to 8.3.1989 (Annexure-2). In spite of the above order, no arrears were paid to the applicant, so the applicant submitted a representation before the respondent no.1 before the respondent no.1 vide letter dated 8.8.1997 followed by the reminder dated 6.7.1998 (Annexure-4). In response to the above, the respondents issued order dated 27.8.2003 (Annexure-5) and required the applicant to indicate the different period of working in different Railways for the period from 28.1.1963 to October, 1993. According to the applicant, he has calculated the arrears due to him for the period from 28.1.1963 to 9.2.1984 (calculation sheet at Annexure-6) and sum of Rs. 49678/- should be due to him for which he has come up before this Tribunal with this O.A.

4. The respondents have countered the above pleadings by saying that in between the period from 1961 till the date of his retirement, the


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applicant's seniority on different promotional posts were not withheld by the Railway Administration. On the contrary, referring to the respondents' letter dated 1.3.1996, it is stated that due arrears to be paid for the period from 21.5.1961 till 8th March, 1989 were indicated which is based on next below rule and proforma promotion/seniority has been granted. However, before such claim is established, it would be necessary that all the officers who are senior to the officer (applicant) who is out of the regular line, should have been given acting promotion and also the officers next below to him, unless in any case the acting promotion is not given because of inefficiency, unsuitability or leave. In the event of one of these three eventuality being applicable to the officer immediately below the officer outside his regular line, then some other officers even more juniors, should have received acting promotion and the officer, if any, in between should have been passed over for one of these reasons. The respondents have further stated that the applicant has not actually shouldered any higher responsibility to the higher post w.e.f. the date indicated in the proforma promotion order, therefore, he is not entitled for arrears w.e.f. the said date. He has been granted the difference of pay which was only due to him.

5. I am afraid, I do not agree with the arguments given by the respondents as above. The respondents


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themselves have admitted vide memorandum dated 1.3.1996 that the applicant would be entitled for certain amount of arrears indicated therein. When the applicant represented the matter, they have not considered the same, but asked the applicant to indicate the different posts which he had held between the period from January, 1963 to February, 1997. Instead of asking the applicant to indicate these details, the respondents should have themselves ascertained the same from the Service Book of the applicant since the Service Book would contain every minute detail of the post held, from the date the post was held and the pay which has been fixed for him etc. It appears that the respondents have only tried to avoid such an exercise and instead has passed on the buck to the applicant and not considered the applicant's pleas. In my view, it would be necessary to give a suitable direction to the respondents to consider the representation of the applicant within a time limit.

6. In the above circumstances, I direct the respondent no.1 & 2, to consider the representation made by the applicant, which is already on record, as also any further representation which the applicant may give within a period of 15 days from the date of this order with regard to pay fixation and arrears of pay due to him, if any, and pay the same in accordance with the rules. In any case, the applicant is entitled to a detailed reply in this


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matter and so the respondents should issue a speaking order in the matter. The above action should be completed within a period of four months from the date of receipt of copy of this order.

7. The O.A. stands disposed of in the above terms with no order as to costs.


MEMBER-A 25-1-2007

GIRISH/-