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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

O.A. No. 631 of 1986.

Pachkauri Ram (deceased) Applicant

Versus

Union of India & others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant is now substituted by his legal representatives vide order dated 22.3.90 as he died during the pendency of the case. He had approached this tribunal praying that he be allowed increment at prescribed rate of Rs.15/- per month in the grade of 425-640 w.e.f. 1.7.81 and onward as he was promoted in the said grade in the year 1980 by the Divisional Railway Manager, Northern Railway, Lucknow and payment of all the arrears, whatsoever, accrued due to the non-adjustment of his annual increment w.e.f. 1.7.81. The punishment notice dated 12.4.85, issued to him, withholding his increment from Rs.462/- to 476/- in the grade of Rs.330-560/- due on 1.7.85 for a period of one year may also be declared null and void as he was already working in the grade of 425-640/- w.e.f. 1980 not in the grade of 330-560/- as alleged and the process of inflicting of the punishment in the shape of withholding of the annual increment could only be done against the applicant in the grade of Rs.425-640 and not in the grade of 330-560 and the process of the withholding annual increment and denial of his raising his pay due to the adjustment of his annual increment could only be done from raising his pay from 485/- to 500/- on 1.7.85 and not from Rs.464/- to 476/-. This amounts to doubt punishment which is not permissible within the rules.

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2. The respondents have resisted the claim of the applicant stating that he was not promoted in the grade of 425-640/- as Senior Ticket Examiner. It was a selection-grade post and was to be filled by selection. He never appeared in the selection test and was not selected. He was temporarily promoted in the grade of 425-640/- . His pay was fixed at 455/- p.m. He was transferred from Lucknow Division to Bikaner Division. Accordingly he was spared by the Lucknow Division. He was not regularly promoted in the scale of pay 425-640/- and as such he could not have claimed the benefit of the same.

3. From the pleadings of the parties, it appears that of course minor punishment was given to the applicant and his increment was withheld in the substantive grade. For withholding an increment, an opportunity of hearing should have been given to the applicant. The record itself indicates that no opportunity of hearing was given to the applicant even otherwise fundamental rules in this behalf were not followed and the increment could not have been withheld in this manner. Accordingly, the application is allowed in part inasmuch as that the order withholding increment dated 12.4.85 is quashed and the result will be that this would be taken into account for pensionary benefits to the applicant. As the applicant has now died, the pensionary benefits may be granted to the legal representatives of the applicant. The same may be done within a period of three months from the date of communication of this order. No order as to costs.

B
R. Shyam
MEMBER (A)

(ug) DATED : NOVEMBER 13, 1992

VICE CHAIRMAN.