

Court no.2
Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Transfer Application no.103 of 1986.

K.L.Garga Petitioner

Versus

The Chairman, Railway Board,
Rail Bhawan, New Delhi and
another ... Respondents.

Hon'ble D.S.Misra-AM

Hon'ble G.S.Sharma-JM

(Delivered by Hon'ble D.S.Misra)

The above mentioned case(writ Petition no. 6212 of 1979) has come to us on transfer from the High Court of Allahabad under Section 29 of the A.T.Act XIII of 1985.

2. The petitioner, who was working in the Martin Light Railways, was absorbed in the Indian Railways on the closure of the Martin Light Railways on 1.1.1979. The absorption and pay fixation of the petitioner in the Indian Railways was to be done in accordance with the various instructions issued by the Railway Board from time to time. The petitioner's grievance is that he was drawing total emoluments Rs.654/- per month in the Martin Light Railways but his emoluments in the Indian Railways were fixed at Rs. 360/- p.m. denying him the benefit of duty allowance of Rs.150/- p.m. for working as Engineer

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and consolidated T.A. of Rs.105/- p.m.. The other grievance of the petitioner is that on his absorption he was appointed as Assistant Permanent Way Inspector on a lower status and on less emoluments; that his various representations to the Railway Administration had yielded no result and had sought a direction through the instant petition to the respondent to decide the appeal/ representations within two months.

3. In the counter-affidavit filed on behalf of the respondents, it is stated that it is incorrect to aver that the appointment of the petitioner amounted to lowering of his status and total emoluments; that the pay of the petitioner was fixed correctly at Rs.205/- p.m. in the grade of Rs.205-280 applicable in the category of Assistant Permanent Way Inspector in Central Railway; that the monthly emoluments drawn by the petitioner in the Martin Light Railways excluding house-rent and consolidated T.A. were being paid separately and were not more than what he is drawing on the Central Railway; that his pay particulars in the Martin Light Railway and the Central Railway are as follows:

Martin Light
Railway

Rs. 280-00

Pay particulars on the Central
Railway.

Wages Rs. 205/-

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-3-

		contd.
Rs. 77.00	Dearness Allowance	Rs. 32/-
	Dearness pay	Rs. 90/-
	Interim Relief	Rs. 30/-
Rs. 357/-	Total	Rs. 357/-

that there was no such thing as consolidated T.A. in the Indian Railways and travelling allowance is not part of pay; that the rate of travelling allowance depends on the rate of pay and is paid for the tour performed on duty; that the duty allowance of Rs. 150/- p.m. was given to the petitioner for the additional work of Engineer in a Railway Workshop under Martin Light Railway and it cannot be treated as pay after his absorption in the Indian Railways; that it is incorrect to aver that anything was conveyed to the petitioner to give him the impression that his case was being considered; that the averment regarding virtual admission of his claim by the competent authority is assumption of the petitioner and the copies of the letters referred to are for the purpose of official use and not for the petitioner; that the petitioner was informed about the correct fixation of his pay by AEN, AGC but the petitioner was never satisfied with the fixation of his pay; that it is incorrect to aver that the respondents have not decided the representations of the petitioner and it is asserted that the respondents have decided the representations made by the petitioner and that the fixation has been made correctly and the

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-4-

petitioner's request cannot acceded to. However, no documents were filed by the respondents.

4. The petitioner filed rejoinder -affidavit in which the points raised in the petition were reiterated and, ⁹it is asserted that in the Martin Light Railways, the petitioner had a status of a Class II Officer and the Screening Committee completely failed to consider the status of the petitioner as Class-II Officer and his basic scale was fixed in disregard of it; that it is incorrect to state that the pay fixation of the petitioner had been made in accordance with the Railway Boards' direction and that the petitioner's representation has not been decided till date, neither a copy of the decision has been supplied to the petitioner nor has it been filed with the counter-affidavit.

5. We have heard the arguments of the learned counsel for the parties. Learned counsel for the petitioner drew our attention to the provisions contained in para 2544 of the Indian Railway Establishment Code which gives the break up of the term emoluments and the definition of average emoluments. His contention is that the total emoluments drawn by the petitioner in the Martin Light Railways should have been protected while fixing the salary of the petitioner in the Indian Railways. However, he failed to point out

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-5-

any provision of law or rules on the subject ^{LP} to support this contention. ~~Appendix of the~~ Railway Boards' Circular dated 22.10.1973, copy annexure 1 to the petition, deals with appointment of the Ex Shahdara-Saharanpur, Howrah-Sheakhala and Howrah-Amta Light Railways on the Indian Railways. In this letter, it is stated that the pay of Ex-Light Railways employees appointed on the Indian Railways should be fixed in the various scale of pay appropriate to the category for which they are found suitable at the minimum of the relevant authorised scale. It further states as follows:

" If ,however, after fixation of pay at the minimum of the grade, the loss in emoluments still persists, the pay was to be fixed at the nearest stage up to and including the maximum of the absorption grade and would protect the basic pay drawn by the staff on the light Railway."

The applicant himself filed a copy of his representation dated 6.4.1974 addressed to the Chairman Railway Board in which he was stated that " I accept all the conditions of service very kindly offered to me vide letter no. APO Engg letter no. HPB/706/R/E/APW/ dt. 14/2, 3.1972 I have joined today at Jhansi at 10/55 Hrs." In his representation ^{LP} ~~also~~ he had made a claim for being appointed to Class -I post and being given emoluments totalling Rs.652/- drawn by him in the Martin Light Railways. He has filed copies of various representations on this subject

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-6-

6. We have considered this matter and we find that the petitioner has alleged that he has received no reply to his various representations regarding his status and fixation of pay and has prayed that the Railway Administration be directed to do so within a period of two months. We also find that the respondents have failed to produce any document in support of their contention that decision of the Railway Board on the representations of the petitioner has already been communicated to him. It is the duty of the Railway Board to consider the representation of the petitioner on merit and give a decision within a reasonable time. We, accordingly, direct the Railway Board to decide the various representations made by the petitioner and to communicate their decision to the petitioner within a period of 3 months from the date of order.

7. We accordingly allow the petition in terms mentioned above and make no order as to costs.

AM *[Signature]* 14.1.87 } *[Signature]* 14/1/87
J.M.

JSingh/ 14.1.1987.