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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION O.A.NO. 761 OF 1987.

Shiv Shanker Rai

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Applicant.

Vs.

General Manager, Northern Railway,
Baroda House, New Delhi & other

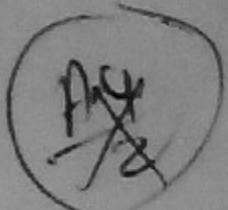
.... Respondents.

Hon'ble K.J.Raman, A.M.

This is an application under section 19 of the Administrative Tribunals Act, 1985 preferred by the applicant seeking re-fixation of his pay with effect from 1.1.1973 and consequential benefits including arrears and pensionary benefits.

2. The case of the applicant, briefly stated, is that his pay was fixed by the Railway department itself at Rs.500/- on 1.1.1973 in pursuance of the recommendations of the Third Pay Commission and that on 1.4.1973, his pay was Rs.515/-. The grievance of the applicant is that inspite of the pay having been fixed as aforesaid, he received only Rs.485/- in the month of February, 1974 involving a reduction of Rs.30/- in his pay. The applicant has further stated that in the month of May, 1974, he alongwith other loyal Railway Servants was given an extra increment of Rs.15/- for not joining the strike and this increment was also due to him. The applicant has stated that he had represented to the DS (P), Northern Railway, Allahabad by an application dated 15.3.1974 questioning the reduction of his pay by Rs.30/- and seeking the payment of his salary at the rate already

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fixed as aforesaid (Annexure-I to the Application). According to the applicant, he thereafter sent several applications to the authorities for which, he got no reply. He finally submitted his grievance to the Pension Adalat by an application dated 11.7.1986. In reply to such representation, at first a letter dated 24.7.86 was received from Railway department stating that the issues contained in the applicants' letter dated 11.7.1986 were not within the scope of the Adalat. It was further promised that "arrangements were being made to finalise the same as early as possible". In a subsequent letter dated 29.7.86, it was mentioned on behalf of the D.R.M., Northern Railway, Allahabad, that the case had been reviewed and it was noticed that the advance increment granted to the applicant from 1.6.1974 has been counted while fixing his pension. There was no mention in this letter regarding the fixation of pay with effect from 1.1.73. Being aggrieved with the last mentioned communication, the applicant has approached this Tribunal for issue of a direction for the revision of his pay as on 1.1.1973 and for other consequential benefits.

3. In the reply filed on behalf of the respondents, it has been stated that the applicant's pay was fixed at Rs.470/- with effect from 1.1.1973 and that "the copy of pay fixation statement filed by the petitioner as Annexure-I to the petition is not correct". It is also stated that the original service record of the petitioner shall be produced before the Tribunal at the time of final hearing. The respondents have further denied that they had received any representation from the applicant. It is stated on behalf of the respondents that the petitioner raised the matter about the fixation of his pay for the first time

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before Pension Adalat eight years after his retirement.

4. In the rejoinder, the applicant has reiterated his own stand regarding the fixation of his pay w.e.f. 1.1.1973. It is also suggested by the applicant that the service records of two other persons similarly placed could also be seen to come to the correct conclusion regarding the pay fixation (para-5 of the rejoinder). The applicant has also submitted copies of postal receipts in respect of some applications stated to have been sent by the applicant to the department.

5. I have heard the learned counsel for the parties and also perused the records. During the arguments, the learned counsel for the applicant reiterated the various points as aforesaid. On behalf of the respondents, the learned counsel for the respondents produced certain records including the Service Book of the applicant. He also showed an endorsement, by a rubber stamp, of the fixation of pay w.e.f. 1.1.73 on existing page-3 of the Service Book. According to this, the pay fixed w.e.f. 1.1.73, was Rs. 470/- only and w.e.f. 1.6.1973 the pay fixed is shown to be Rs.485/-. There are further endorsements regarding pay on various dates from 2.6.74 to 2.6.78. It is observed that one increment has been given, on account of non-participation in the strike, w.e.f. 2.6.74. The learned counsel for the respondents stated that in the year 1965, the pay of the applicant was Rs.205/- and in this regard, he showed a pay fixation sheet in the service book. On page marked as 28 there is an endorsement under the column 'Revised Pay' that increments were withheld for four years permanently w.e.f. 27.9.1962. The learned counsel for the

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respondents argued that taking this into account, it appears that his pay was correctly fixed as stated in the reply. The learned counsel for the applicant however, stated that in the year 1964, the pay of the applicant was Rs.219/- and not Rs.205/-. He was however, not in a position to point out to any documents to substantiate this statement. As regards Annexure-I, which is stated to be the pay fixation sheet of the applicant, the learned counsel for the applicant asserted that it is a true copy of the original which must be with the department. In the reply of the respondents, there is a denial of the correctness of this document. But the correct pay fixation sheet has not been submitted on behalf of the respondents nor is the basis of fixing the pay at Rs.470/- stated. It has been, however, stated by the learned counsel for the respondents that if the pay fixation sheet in Annexure-I is correct, then the applicant would be entitled for the relief asked for and the respondents would have no objection to give it to the applicant. The learned counsel for the respondents further stated that some of the pages are missing from the Service Book. It is seen that periodic entries of pay is shown in the service book upto the year 1955. The subsequent entries are not there and it appears that further pages regarding promotions etc., giving details of pay on various dates, are missing. In the circumstances, it does not seem to be fair to reject the plea of the applicant summarily without further examination. Even if the pages of ^{the} service - book are missing and the Railway administration is not able to trace the pay fixation sheet in question, it should be possible for the appropriate Accounts Officers with the

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respondents to work out the correct pay of the applicant from time to time upto 1.1.1973 and on 1.1.73, and thereafter upto the year 1978 when the applicant retired, taking into account the prevailing pay scales, the increments allowed, cut in the increments stated to have been imposed on the applicant, etc. The suggestion of the applicant to consult the cases of similarly placed persons may also be useful to some extent.

6. In the above circumstances, the respondents, are hereby directed to give due consideration to the applicant's pleas and to get the pay of the applicant fixed correctly as on 1.1.1973 in the light of the observations made above, and communicate their reasoned decision to the applicant. *If* the contentions of the applicant are found correct, *consequential* they should extend to him all the benefits including *arrears* and pension etc. It is further directed that this should be done by the respondents within a period of three months from the date of this order. The parties are *directed* to bear their own costs.

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Dt./25.1.1989.

— MEMBER (A)

Shahid.