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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No.996 of 1992

V.N. Pandey

.... Applicant

Versus

Union of India and Others

.... Respondents

CORAM:

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

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

The applicant was appointed as Guard Gr. 'A' in the Northern Railways in the pay scale of Rs.80-170. In the meantime the applicant earned certain promotion. After ^{enforcement of} IVth Pay Commission w.e.f. 10.1.86 the applicant's pay was also revised from Rs.425-600 to Rs.1350-2200/- and the applicant's pay was fixed at Rs.2150/- and thereafter he was promoted from Guard 'A' to Guard 'A' Special in the pay scale of Rs.1400-2600 and his pay was fixed at Rs.2360/- and increments were also given to him. He retired from service on 31.3.82 at that stage he was getting a salary of Rs.2540/-. It is after his retirement a notice was issued to him that his service certificates cum identity card it was found that the respondents have mentioned his last pay as Rs.2250/-p.m. instead of Rs.2540/-

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2. The applicant made a representation and contacted the authorities to rectify the mistake but he was told that his pay was reduced from Rs.2540/- to Rs.2250/- and that too with retrospective effect w.e.f 8.9.84 when he was working as GuardA. The applicant has given names of several persons who were working with him as Guard'A' Special but even then they have been getting higher scale. The applicant preferred a representation against the same for rectifying the error and various other representations were also made but without any effect and even his gratuity was withheld for making recovery of the same in view of the alleged over payment to the tune of Rs.30,000/-. His DCRG and other terminal benefits have also been computed at the rate of Rs.2250/- and the applicant found that the respondents by the end have not allowed his representation that is why he has approached this Tribunal praying that his pay should not be reduced from Rs.2540/- to Rs.2250/- per month and not to make any recovery at all from the applicant and the entire benefit of relief may be given to him.

3. The respondents have opposed the application and stated that earlier the applicant could not qualify in the examination, as such at the relevant time on his reversion from the post of Deputy Chief Yard Master in the Grade of Rs.700-900(RS) to the post of Guard'A' in the scale of Rs.425-600(RS) on and from 3.9.84 the applicant was entitled for his pay amounting to Rs.515/- only

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but due to clerical emissions, the pay was wrongly fixed at the rate of Rs.600/- per month and further increments, fixation were allowed to the applicant. The aforesaid error was detected while making final settlement and as such, the necessary dues were arranged after adjustment as per rules. On the basis of wrong fixation at Rs.600/- instead of Rs.515/- from 3.9.84 and on account of the recommendations of IV Pay Commission w.e.f. 1.1.86 in the grade of Rs.425-600(RS) was also revised, but on detection of the same the error was rectified and as a matter of fact the applicant was entitled to Rs.2250/- and whatever was paid to him earlier was wrongly paid to him because of the mistake occurred earlier and was followed subsequently as the applicant was taken the plea that earlier his juniors were getting higher pay and that the applicant was also given the same pay scale. The respondents were given an opportunity to file a supplementary counter affidavit. In the supplementary counter affidavit it has been stated that the juniors whose names have been given by the applicant and they have stated that the applicant was irregular in service and get late increments and the juniors earned increments in time and as such the applicant was not entitled to the same pay scale which has been given to the juniors. They have also made reference to the occupation of the quarter by the applicant which is a separate quarter, eviction of the same cannot be tagged with the same.

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3. On behalf of the applicant a reference has been made to para 13 of the Railway Establishment Code in this behalf. It was rather a matter but the counting of which could have been done only after associating with the applicant but the same was same. It is however, noted that if no one is to suffer because of mistake of the fact but a government error and mistake which are two different things. It is also to seen that no one is to suffer because of lapses and negligence on the part of the government. In this case a reference is made to the case of State of Maharashtra Vs. Jagannath Achyut Karandikar, A.I.R 1989 S.C. page 1133. It may be, even if ^amistake, a rectification can be made but hardly there being an occasion for making recovery the respondents themselves responsible for which no action has been taken against all the officers who were responsible for the error but no final observation in this behalf has taken as it is a matter which is to be again decided.

4. Accordingly, the respondents are directed to decide this matter within a period of three months associating w/ the applicant with the matter in accordance with law in the light of observations made above. The applicant shall approach Senior Personnel officer Railway Administration within

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a period of three weeks from today and who shall fix a date two weeks thereafter and after hearing the applicant pass a speaking order taking into consideration all the pleas and the legal and factual position and without trying to save the skin of office and officers against whom no action was taken incase error was on their part. As they have indicated earlier so far as the position of the railway quarter is different that the respondents in accordance with law as the applicant cannot be benefited to the cost of Railway Administration for a particular benefit, he cannot be deprived of the benefit of the other side also.

[Signature]
Vice Chairman

Dated: 22.3.93