

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

...

D.A. No.509 of 1995/3

Allahabad this the 28th day of September, 1995

Hon'ble Shri T. L. Verma, Member (J)  
Hon'ble Shri D. S. Baweja, Member (A)

Shri S. C. Banerjee  
S/o La-te Shri Nitai Chandra Banerjee  
R/o 157, Alinagar (Northern)  
GORAKHPUR.

... Applicant

By Advocate: Shri Sheesh Kumar

VERSUS

1. Union of India, through  
Chairman  
Railway Board  
NEW DELHI.

2. Chief Personnel Officer  
North Eastern Railway  
GORAKHPUR.

3. General Manager  
North Eastern Railway  
GORAKHPUR.

... Respondents

By Advocate: Shri A. V. Srivastava

ORDER

Shri D. S. Baweja, Member (A)

The applicant has filed this D.A. against denial of benefits to him of upgradation to higher pay scale of Rs.2000-3200 on the recommendations of the Fourth Pay Commission.

2. The applicant was working as a Stenographer in the scale of Rs.550-900 and was attached to Chief Personnel Traffic Superintendent, a senior administrative grade officer. He was regularly selected in the scale. By a Gazette notification dated 13.9.86, the revised pay scales on the recommendations of the Fourth Pay Commission were notified. As per the Gazette notification, the scale of Stenographer Grade-I Rs.550-900 has been revised to Rs.1640-2900. Scale of Rs.2000-3200 has been prescribed for the post of Stenographer attached to the officers in the rank of Senior Administrative Grade and equivalent posts by

suitably upgrading the required number of posts of Stenographers from the lower grades. These posts in the new higher scale should be filled by promotion as per normal procedure. The recommendations of the Pay Commission have been circulated by Railway Board's letter dated 24.9.86. For upgradation of the posts of Stenographers to the scale of Rs.2000-3200, following note has been indicated:

"Rs.2000-3200 for posts of Stenographers attached to officers of Senior Administrative Grade and equivalent posts by suitably upgrading the required number of posts of Stenographers from the lower grades. These posts in the new higher scale should be filled by promotion for which rules will be notified separately."

The rules have been separately notified vide Railway Board's letter dated 20.10.86.

3. Counter reply by the respondents and the rejoinder to the same has been filed. Heard the counsel for the parties and perused the record.

4. The applicant superannuated on 30.11.95 without getting the benefit of promotion in the new higher scale of Rs.2000-3200 as recommended by Fourth Pay Commission.

6. The learned counsel for the applicant pleaded that the petitioner has been denied in an arbitrary and illegal manner his rightful benefit of higher scale of Rs.2000-3200 from 1.1.86 as recommended by the Fourth Pay Commission making the following main averments:-

(a) Fourth Pay Commission's recommendations referred to above were effective from 1.1.86.

(b) The applicant was regularly working in the scale of Rs.550-900 and was working with a Senior Administrative Grade officer and therefore fulfilled the stipulations for the new higher grade.

(c) Referring Railway Board's letter dated 20.10.86, the applicant made repeated representations to complete the selection process before his retirement as the selection was only confined to review of the service record by the committee. Denying the higher scale of Rs.2000-3200 to the petitioner has not only put him into financial loss of the wages in the higher grade from 1.1.86 till superannuation and <sup>but</sup> <sub>A</sub> substantial recurring loss in the pensionary benefits.

6. The learned counsel for the respondents while strongly refuting the prayer of reliefs made by the applicant, has drawn our attention to the stipulations made in Railway Board's letter dated 20.10.86 with regard to the promotion to the new higher scale. para-2(ii) of the letter lays down the identification of the number of the posts of Stenographers to be upgraded and then adjudging the suitability by a committee of officers. The accrual of the benefit in the higher scale is covered by para-2(v) as under:-

"The benefit of drawing pay in the new scale of Rs.2000-3200 will accrue only from the date of the incumbents are actually fitted in the scale after following the procedure indicated in items (iii) & (iv) above."

After receipt of the Railway Board's letter dated 20.10.86, identification and sanction of the posts to be upgraded was completed by 16.12.86 and the panel was notified on 18.2.87 and thereby completing the selection process within a period of four months after the receipt of the Railway Board's orders. All the eligible incumbents have been fitted in the scale from the date of issue of the promotion orders and not from 1.1.86. Therefore, there has been no illegality or violation of the rules.

7. We have carefully considered the pleadings made by both sides during the hearing, averments made in the counter reply, rejoinder and the material on record. The Gazette notification dated 3.9.86 indicates in case of Stenographer Grade-I the scale of Rs.1640-2900<sup>5</sup> in replacement of the scale of Rs.550-900 has been allotted for some posts which are to be filled up with the due process of selection. Therefore, in our opinion, the scale of Rs.1640-2900 replaces the scale of Rs.550-900 and effective from 1.1.86. The benefit of this scale has been given to the applicant from 1.1.86.

8. The benefit of promotion in the higher grade of Rs.2000-3200 is to be given after due process of selection for which the Railway Board subsequently issued detailed instructions vide letter dated 20.10.86. The instructions based on the stipulation in the Gazette notification dated 13.9.86 clearly imply that the accrual of the benefit in the new higher scale is not automatic as is in respect of Rs.1640-2900 from 1.1.86.

9. As regards the allegations of intentional delay in the selection process inspite of repeated representations by the applicant, we find no force in this contention as the entire selection process of fitting in of the incumbents as per the laid down procedure has been completed within a period of four months after receipt of Railway Board's instructions. Linking the process of selection with superannuation of the incumbents may be impracticable and in fact, not possible to follow.

10. Keeping in view the above background, the accrual of the benefits in the new higher scale of Rs.2000-3200 is not effective from 1.1.86. The eligible incumbents were

to be fitted in the new scale after following the due process of selection. The selection has been completed expeditiously and all the incumbents promoted in this grade have been given the benefit from the date of actual promotion and not 1.1.86.

11. In view of the foregoing, the relief prayed for by the applicant cannot be allowed and the petition is dismissed. No order as to costs.

*D. S. Baweja*  
(D. S. BAWEJA)

MEMBER (A)

*T. L. Verma*  
(T. L. VERMA)

MEMBER (J)

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