

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 6th day of July, 2001.

CORAM :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen. K.K. Srivastava, A.M.

Orginal Application No. 516 of 1993.

Jogendra Singh a/a 41 years S/o Sri Jaleshwar Singh
R/o Barak No. 1426, Room No. E&F, Indian Institute
Colony, Mughalsarai, Distt.

.....Applicant

Counsel for the applicant :- Sri V.K. Srivastava

V E R S U S

1. Union of India through the General Manager,
Eastern Railway, Netaji Subhash Road, Calcutta.

2. Divisional Railway Manager, Eastern Railway,
Mughalsarai.

.....Respondents.

Counsel for the respondents :- Sri D.C. Saxena

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of the
Administrative Tribunal's Act, 1985, applicant has
prayed for a direction to the respondents to pay salary
as arrears since 1980 in pay scale of Rs. 260-400 and
thereafter of the higher post on which the applicant had
worked and further direction to assign the due seniority
of higher post Material Checker and other benefits.

2. It is not disputed that before filing this OA, applicant filed Civil Suit for these reliefs. The Civil Suit was dismissed. Then applicant filed an appeal which was transferred to this Tribunal under section 29 of the Administrative Tribunal's Act and was registered as TA No. 202/1986. This Tribunal disposed of the appeal by order dated 28.02.1992 with the following observation :-

"..... But obviously he is not having a right to the post, but in passing a reversion order, rule of seniority of the post on which reversion order has been passed, is to be seen and even otherwise the applicant having worked on the said post for months together he should have also been given an opportunity for adjudging his suitability, and it has been stated at the bar that the applicant is still working on the higher post, if that be so, the applicant may not reverted unless two chances are given to him for getting his suitability adjudged. In case he failed to succeed in the same, the applicant may be reverted. But in case he worked in the higher post till then he may not be reverted and in case the question of reversion arises, he may be reverted first to the intervening post of Store Keeper and even if on that post, those who have right to hold the post, come and join then the applicant will be sent back to the orginal post of Gangman with the above observation and directions. The application is disposed of finally. No order as to costs. "

3. From the perusal of the order dated 28.02.1992 it is clear that applicant in the suit ~~had~~ claimed all the reliefs which he claimed in the relief No.1 of the present O.A. As the applicant was not granted relief in the said case which/ultimately decided by this Tribunal, The applicant's claim now raised through this O.A is clearly barred by res-judicata and we do not find that applicant is entitled for relief No. 1.



4. Coming to the second relief, it is not disputed that by order dated 18.03.1992 applicant was promoted as Permanent Way Mistry and he is serving on the same post. The grievance of the applicant is that he is being paid the salary in the scale of Rs. 1200-1800 while he is entitled for the scale of Rs. 1400-2300/-.

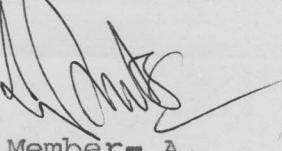
5. Counter affidavit has been filed. In para 17 of the CA it has been stated that the scale of Mistrisies @ Rs. 380-560 has been converted ^{into} the scale of Rs. 1320-2040 and the scale of Rs. 330-480 for the same post has been converted in to 1200-1800 as per recommendation of IV Pay Commission which has been approved by Government of India, Ministry of Railways. Alongwith RA applicant has filed a chart with the heading 'Permanent Way Staff-Evolution of Scales of Pay' (annexure- II). In this chart two scales of Permanent Way Mistry have been shown but both scales have been merged w.e.f 01.01.1986. A common scale of Rs. 1400-2300/- has been accepted. Learned counsel for the applicant has submitted that the applicant is entitled for the scale mentioned above and ^{the} averments made in CA and in the Court.

6. Considering this difference in C.A and document filed by the applicant alongwith R.A, in our opinion this question requires a thorough consideration by the railway authorities. If both the scales namely 330-480/- and 380-560/- have been merged in one scale prescribed for Permanent Way Mistry, applicant shall be entitled for this scale. The O.A

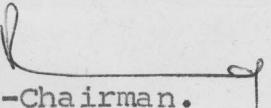


is accordingly disposed of finally with liberty ~~and~~ to the applicant to make a representation to respondent No. 2, Divisional Railway Manager, Eastern Railway, Mughalsarai within a month. The representation if so filed shall be considered and decided within three months by a reasoned order in the light of the observations made in the order.

7. There will be no order as to costs.



Member- A.



Vice-Chairman.

/Anand/