

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

DATED: THE 2nd March 1998

CORAM: HON'BLE MR. S.DAYAL, A.M.

ORIGINAL APPLICATION NO.1139/93

Mohd. Jamil Khan son of late Sri Mohd. Khalil Khan  
Retired Goods Clerk, R/o S.21/98, English Line,  
Varanasi.

C/A Shri N.N.Lahiri,Adv.

.... Applicant

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House, New Delhi.

2. Divisional Accounts Officer, Northern Railway  
Hazarat Ganj, Lucknow Division, Lucknow.

3. Divisional Railway Manager, Northern Railway,  
Hazarat Ganj, Lucknow Division, Lucknow.

.... Respondents

C/R Shri A.K.Gaur, Adv.

ORDER

BY HON'BLE MR.S.DAYAL, A.M.

This is an application under section 19 of the  
Administrative Tribunals Act, 1985.

2. The applicant seeks the relief of refixation of  
pension after taking into account 35 years service by the  
applicant. He also claimed for arrears of pension with  
18% interest thereon.

3. The facts as narrated by the applicant are that he entered in the service of Indian Railways as Assistant Goods Clerk on probation on 3.3.1941. He was placed under suspension in the year 1955 but he was later on reinstated on revocation of suspension vide office order dated 6.7.1965. The respondents have not been able to complete the enquiry against the applicant before 31.8.76. The applicant seems to have got busy in a case u/s 15 of the Payment of Wages Act before the Prescribed Authority, which went to higher forum and was decided finally by the Central Administrative Tribunal in an appeal on 27.1.1992. The Central Administrative Tribunal upheld the order of the District Judge, allowing wages during the period of suspension and only modified the amount of interest from 12% to 6%. The applicant claims that his last pay thereafter was Rs.560/- per month but his pension has been fixed only at Rs.137/- while as per the extant orders regarding pension, his pension should have been fixed at Rs.209/-.

4. The respondents have contested this position on the ground that his basic pay was only Rs.428/- on the date of retirement. It is also mentioned that his service record was rechecked later and his last pay was found at Rs.440/- instead of Rs.428/-. He was paid arrears on the basis of this discovery and has been getting pension on the basis of monthly salary of Rs.440/-.

5. The arguments of Shri V.K.Srivastava, brief holder to Shri N.N.Dahri counsel for the applicant and Shri A.K. Gaur counsel for the respondents were heard. The learned counsel for the applicant mentioned that the applicant was awarded arrears of wages as well as gratuity on the basis of pay of Rs.560/- per month. The respondents seem to contest this amount but since the judgment of the District Court and the order of the Central Administrative Tribunal had become

final, the contention of the respondents that the award under the Payment of Wages Act is erroneous cannot be accepted now.

6. The respondents are directed to verify from the records as to what was the last pay which was accepted by the judicial authorities in their judgments and on the basis of which the respondents had awarded the arrears of the wages to the applicant. They should work out <sup>and pay</sup> the pension of the applicant on the basis of that figure. This order shall be complied within four months time. There shall be no order as to costs.

Gc

*Shau*  
MEMBER (A)