

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.415 OF 1999

ALLAHABAD THIS THE 21ST DAY OF APRIL, 2008

HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN
HON'BLE MR. N. D. DAYAL, MEMBER-A

Rama Shanker Jain,
Son of Late Bhagwan Das Jain,
Resident of Baldeo Road, Tundla,
Tehsil Edamadpur, District-Agra.

.....Applicant

By Advocate : Sri S. K. Tyagi, Sri Satish Dwivedi & Sri
Anil Dwivedi

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Senior Divisional Personnel Officer,
Divisional Rail Manager Office, N. Rly.,
Allahabad.

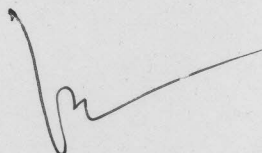
.....Respondents

By Advocate : Sri A. Tripathi

O R D E R


HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN

Applicant, who superannuated on 31.12.1990, has
prayed for asking the respondents to fix his pay
correctly on the post of Assistant Superintendent
w.e.f. 01.01.1984 to 08.11.1990 and thereafter to
refix his pensionary benefits accordingly and pay
arrears if any, together with interest @ 18% per
annum.



2. He has come with a case that after a long battle in court he was given proforma promotion ~~promoted~~ ⁷ to the post of Assistant Superintendent w.e.f. 01.01.1984, without benefit of back wages, vide order dated 08.11.1990 (Annexure-2) and he joined as Assistant Superintendent, on 08.11.1990. He alleges that while fixing his pension, the respondents wrongly mentioned that he was working as Head Clerk and his pay was Rs.1760 a month. He goes on to state that due to the said mistake on the part of the respondents, retrial benefits were not properly settled and he was suffering recurring financial loss.

3. The respondents are contesting the claim. According to them, for working out the average emoluments, for purposes of determining pension etc., emoluments of ten months, preceding to 31.12.1990, were taken into consideration and the same included emoluments as Head Clerk from 01.03.1990 to 08.11.1990 and as Assistant Superintendent from 09.11.1990 to 31.12.1990. They say, applicant's pension was correctly fixed at Rs.895 a month. They have also annexed Calculation Chart to their Supplementary reply. They say errors crept in earlier PPO were rectified by issuing a revised PPO. It is stated in para -4 of this Supplementary reply that applicant's pension ^{was} revised to Rs.2750/- w.e.f. 01.01.1996, in the [^] ₄ light of the recommendation of 5th Pay Commission.

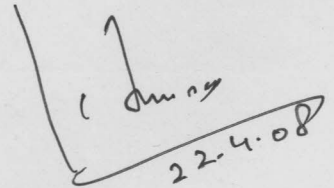


4. Today none has appeared for the applicant to show as to how the revised pension as referred to in para 4 of the supplementary reply or as shown in the calculation chart annexed thereto, is faulty. It appears average emoluments were worked out by taking the average of the emoluments received by him during the period of ten months prior to his retirement. Clerical mistake in showing him, as Head Clerk in place of Assistant Superintendent is not so material. The claim of the applicant for pecuniary benefits from 01.01.1984 to 01.11.1990 and for consequent pensionary benefits does not appear to be well-founded, for the reason that his promotion was proforma one prior to 01.11.1990. In other words his promotion was notional from 01.01.1984 to 07.11.1990.

5. The OA deserves to be dismissed. It is accordingly dismissed. No Costs.



Member-A



Vice-Chairman

/ns/