

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.502 of 1999

Allahabad this the 11th day of November 2003.

Hon'ble Maj Gen K.K. Srivastava, A.M.
Hon'ble Mr. A.K. Bhatnagar, J.M.

Lal Bahadur
S/o Shri Raghbir,
aged about 48 years,
Resident of Vill: Malkhanpur,
Post Hanumanganj, District Allahabad.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India
owning & representing
Northern Railway, Notice to be
served to the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, D.R.M Office,
Nawab Yusuf Road, Allahabad.
3. The Assistant Engineer,
Northern Railway,
Mirzapur.

.....Respondents.

(By Advocate : Sri G.P. Agrawal)

O_R_D_E_R

(Hon'ble Maj Gen K.K. Srivastava, A.M)

In this O.A., filed under section 19 of
Administrative Tribunals Act 1985, the applicant has
prayed for direction to respondents to pay the salary
of the applicant at basic pay of Rs.1025 per month
and thereafter fixing the applicant's pay in the
revised pay scale of Rs.2350-3540 (RPS) w.e.f. 01.01.1996.



2. The grievance of the applicant is that he was being paid Rs.1025/- as basic pay upto salary of March 1997. However, in June 1997 his pay has been reduced to Rs.931/-. The applicant has filed Annexure 1 which is photostat copy of the pay slip of March 1997 and June 1997.

3. Sri S.S. Sharma learned counsel for the applicant submitted that the action of the respondents is arbitrary and illegal. Learned counsel for the applicant submitted that several increments which were allowed to the applicant, as a result of the order of Prescribed Authority in case No.171 of 1984, were reduced and pay of the applicant was brought down to Rs.931/-. Learned counsel for the applicant also submitted that applicant filed representation on 27.07.1998 but respondents did not decide the same. Learned counsel for the applicant had also argued that if the respondents had decided to reduce the pay of the applicant, they ought to have issued a show cause notice, which has not been done. Learned counsel for the applicant has placed reliance on the judgment of Hon'ble Supreme Court in case of Gajanan L. Pernekar Vs. State of Goa and another, 2000 Supreme Court Cases (L&S) 57 and also case of Bhagwan Shukla Vs. Union of India and others 1994 Supreme Court Cases (L&S) 1320.

4. Opposing the claim of the applicant, Sri G.P. Agrawal learned counsel for the respondents submitted

that this is not a case of reduction of pay. This is the case of wrongly charged pay which was corrected as it occurred due to incorrect feeding in the computer. Learned counsel for the respondents denied that the respondents have received any representation from the applicant.

4. We have heard counsel for the parties, considered their submissions and perused the records.

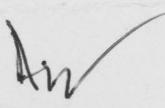
5. Perusal of Annexure 1 establishes that during March 1997, the basic pay of the applicant has been shown as Rs.1025 whereas in June 1997 it has been shown Rs.931/-. Learned counsel for the applicant submitted that the respondents have reduced the pay by disallowing several increments, while the case of the respondents is that due to incorrect feeding in the computer, the applicant has been paid excess amount. We are unable to appreciate the controversy in absence of any specific pleadings filed by either of the parties. Even the representation dated 27.07.1998 purported to have been filed is sketchy. However, the learned counsel for the respondents has stated that no representation has been received ^{by him} by applicant so respondents could not look into the controversy. Even applicant has not been able to produce any evidence that the representation dated 27.07.1998 (Annexure A-5) was served on the respondents. Though the legal position has been well settled by the Hon'ble Supreme Court

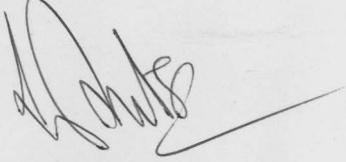
that in case of reduction in pay, a show cause notice is a must but in absence of any order we are not in a position to appreciate the controversy and pass definite order.

6. In our opinion, the interest of justice will better be served if applicant is permitted to file a detailed representation before respondent No.2/ Competent Authority and the same is decided by the Competent Authority/respondent No.2 within specified time.

7. We, therefore, dispose of this O.A. finally with direction to the applicant to file his detailed representation within 2 weeks which shall be decided by the Competent Authority within 2 months by a reasoned and speaking order, from the date of receipt of a copy of this order. It is further provided that the order of the respondents shall cover the point of payment of basic pay of Rs.1025 upto May 1997 and payment of basic pay of Rs.931 in the month of June 1997 and thereafter. We also provide that if the respondents ^{find} _{that} the claim of the applicant is genuine and he is entitled to payments due to him the same shall be paid within two months with 12% interest thereon from 03.05.1999 (date of filing of O.A.) to the date of payment.

8. With the above direction, the O.A. is disposed of with no order as to costs.


Member-J.


Member-A.

Manish/-