

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH,**  
**ALLAHABAD**

**ORIGINAL APPLICATION NO. 844 OF 1999**

ALLAHABAD THIS THE 12TH DAY OF Setember 2005

**HON'BLE MR. D.R. TIWARI, MEMBER-A**  
**HON'BLE MR. K.B.S. RAJAN, MEMBER-J**

Dina Nath Singh, S/o late Ranjeet Singh, R/o Village & Post Dihawa (Nagra), District Ballia (U.P.).

.....Applicant.

(By Advocate Shri J.P.N. Singh )

**V E R S U S**

1. Union of India, through the General Manager, N.E. Railway, Gorakhpur.
2. The General Manager (Karmik), N.E.R., Gorakhpur.
3. The Chief Engineer (Mechanical), N.E.R., Gorakhpur.
4. The Divisional Railway Manager (Karmik), Varanasi.

.....Respondents

(By Advocate: Sri P. Mathur.)

**O R D E R**

**BY K.B.S. RAJAN, MEMBER-J**

Applicant has preferred this OA with a multiple relief i.e. pay for the period between the date of his removal and reinstatement and difference in pay during the period when re-structuring had been made. Since the statute provides for claiming only one relief (of



course, other reliefs if they are consequential to the relief claimed), and in this case since the second one is not as a consequence thereof, in so far as the second one is concerned, the same is not considered by the Tribunal. The applicant may avail of suitable remedies if any available in this regard.

2. The brief facts of the case as contained in the OA and the defence thereto as contained in the counter are given in the succeeding paragraphs.

(i) Version of the applicant are as under:

- (a) Vide order dated 27.1.1989 the applicant was transferred to the post of Driver/Instructor, Bhawe, and that the applicant will see the work of Driver/Instructor, Bhawe by staying at Ballia.
- (b) The applicant was to face an enquiry in which he was not found guilty by the Enquiry Officer, but the Divisional Mechanical Engineer, disagreeing with the Enquiry Officer dismissed the services of the applicant vide order dated 18.7.1989.
- (c) The applicant challenged the order by way of appeal which has not been allowed, then the applicant preferred a Revision before the respondent no.4, who vide order dated 15.2.90 cancelled the order dated 18.7.1989 and reinstated the applicant.

*h*

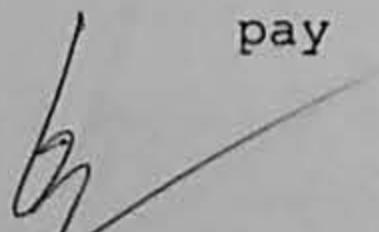
(d) The applicant was promoted to the post of Loco Trial Inspector. The applicant retired on 31.7.1997.

(e) The applicant was not paid his salary for the period from 18.7.1989 to 31.8.1990. Though the services of the applicant for the period i.e. 18.7.1989 to 2.4.1990 has been declared on duty, but the applicant was not paid his salary.

(f) During the period of dismissal from 18.7.1989 to 31.8.1990, the applicant was in possession of the Railway Quarter at Ballia and the Union of India taking it as unauthorized occupant, initiated a case before the Estate Officer and Rs. 37721/- has been deducted from the amount paid to the applicant as retiral benefits.

(g) The services of the applicant for the period of 18.7.1989 to 2.4.1990 declaring as on duty the deduction of the amount is illegal. The competent authority has already directed to realize the rent of the Railway Quarter at the rate of Rs. 45/- per month and as such the applicant is entitled to get recovered the excess money deducted from the retiral benefits as House Rent.

(h) The applicant was given the benefit of restructuring w.e.f. 1.1.1984, was given less salary than mention in folder from 1.1.1984 to 27.1.1989. The applicant on 2.7.1997 made an application stating that pay fixation from 1.1.1984 to 27.1.1989

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after restructuring had been made in the folder, but he has given less amount.

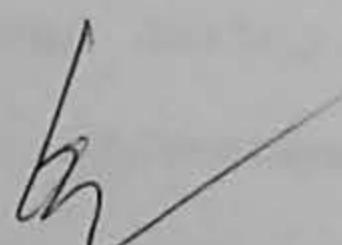
(i) The applicant was promoted in the pay-scale of Rs.2375-3500 vide order dated 23.6.1992. The applicant made a representation to the respondent no.2 to decide the claim of the applicant, but the respondent no.2 did not pay any need till date.

(ii) Version of Respondents:-

(a) The applicant was charge-sheeted and the competent authority removed the applicant from service vide order dated 18.7.1989.

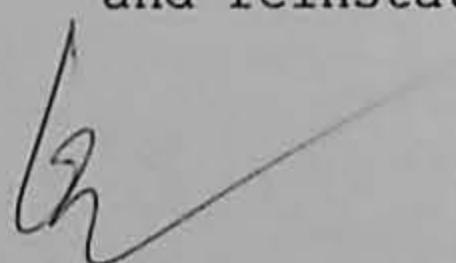
(b) The appeal was dismissed. The Revisional Authority cancelled the earlier orders and directed the applicant for its re-instatement and the applicant was given a warning in writing to remain cautious in future. No order regarding the intervening period for which the applicant is not at all entitled on the basis of "No Work No Pay".

(c) The present application is not within the limitation. The applicant is not at all entitled for any difference of amount alleged not to have been paid to him. The applicant is not at all entitled for the benefit as given by way of the restructuring.

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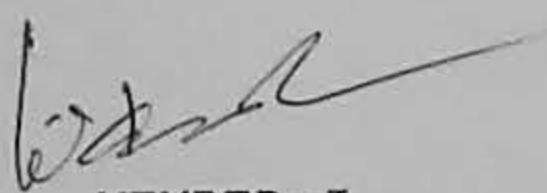
3. Arguments were heard and the documents perused. First, as to limitation. The applicant has claimed a relief which dates back to 1989-90 and the OA has been filed in 1999. The claim relates to payment of salary, which obviously includes increments also. The element of increment would have perpetual impact upon the salary received by the applicant and as such, the cause of action continues as held in the case of M.R. Gupta vs Union of India, (1995) 5 SCC 628. Hence, the application is not hit by bar of limitation.

4. As regards the main matter, the inquiry authority had rendered his finding that the charges are not proved. However, it is the disciplinary authority and the appellate authority which had a diagonally opposite view and imposed the penalty of removal from service. It was these orders of the Disciplinary and Appellate Authority that had been upset by the Revisional Authority by accepting the report of the Inquiry Officer and the applicant was reinstated. This means, that the applicant has been exonerated completely. Once an applicant is exonerated, the logical corollary is to treat him as if not having faced the inquiry at all. In that event, he is entitled to the pay and allowances and the consequential benefit arising out of the increments he gained during the period between the date of removal and reinstatement.

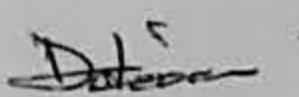
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5. In the instant case the period involved is between 18-07-1989 to 31-08-1990. The applicant retired in 1997. He is therefore entitled to the pay and allowances during the aforesaid period i.e. 18-07-1989 to 31-08-1990 and also his future salary has to be re-worked giving the benefit of the increment that accrued to the applicant as a consequence of his salary during the period in question.

6. The OA therefore is disposed of with the direction to the respondents to work out the salary of the applicant for the period from 18-07-1989 to 31-08-1990 and also refix the salary of the applicant for the subsequent period (by taking into account the extent of increment for the aforesaid period). Payment due to the applicant on this score should be made within a period of four months from the date of communication of this order. No costs.



MEMBER-J



MEMBER-A

GIRISH/-