

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Original Application No.894 of 2005

Allahabad, this the 23 <sup>✓</sup> day of September, 2005.

Hon'ble Mr. D.R. Tiwari, Member-A  
Hon'ble Mr. K.B.S. Rajan, Member-J

Sudama Ram, S/o late Sunder Ram, Working as SPO/Law Officer, N.C.  
Railway, Headquarter, Allahabad.

Applicant.

(By Advocate : In person.)

Versus

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

2. Divisional Railway Manager,  
Northern Railway,  
Allahabad.

.....Respondents.

(By Advocate : Shri P. Mathur.

ORDER

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

Certain admitted facts when spelt out and  
telescoped upon the decision of the Apex Court in the  
two cases referred to below, would readily lead to the  
conclusion that the application is devoid of merits.

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2. The matter relates to stepping up of pay. The admitted position is that the person with whom comparison is drawn by the applicant and the applicant belong to two different cadre - the applicant belonging to the typist cadre and the so called junior to E & RC cadre both of whom were empanelled for the post of Permanent Way Inspector.

3. Secondly the applicant has preferred this OA in 2000 and has sought parity in pay scale with retrospective effect from July, 1979.

4. As regards the first point, the decision of the Apex Court in the case of *Union of India v. O.P. Saxena*, (1997) 6 SCC 360, is considered. The Apex Court has held as under:

"The principle of stepping up of pay is contained in Rule 1316 of the Indian Railway Establishment Code Vol. II which also contains conditions which have to be followed while ordering stepping up.

Two of the conditions contained therein are:

(a) Both the senior and junior officers should belong to the same cadre and the post in which they have been promoted on a regular basis should be identical in the same cadre;

(b) The scales of pay of the lower and higher posts in which they are entitled to draw should be identical.

The above would mean that the two individuals should belong to the same cadre whereas admittedly, the applicant does not belong to the same cadre as that of his so called junior.

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5. Again, as regards the second aspect i.e. limitation, in the very same judgment the Apex Court has held as under:-

"19. The respondent did not make any claim for stepping up of his salary as long as he was in service. Having retired on 31-3-1988, in July 1991 he filed an application before the Central Administrative Tribunal for stepping up of his pay to bring it on a par with that of Shri Sood and also to give him consequential benefits.

21. Apart from the fact that the application of the respondent before the Central Administrative Tribunal which was filed in July 1991 was highly belated, .....

(In the above case the applicant before the Tribunal claimed stepping up of pay w.e.f. 1-1-1986 and the OA was filed in 1991.)

6. Yet another decision of the Apex Court in the recent past is the case of *E. Parmasivan v. Union of India*, (2003) 12 SCC 270 wherein the Apex Court has held as under:-

The anomaly in the scale of pay of the petitioners arose as early as on 12-1-1976 when the Government of India declined to extend the revised scale of pay in terms of the concordance table to members of the cadres of the Store Officers and Administrative Officers. Therefore the petitioners would have raised objection regarding the anomaly in their scale of pay at that point of time. Even thereafter when they retired from the service they could have made the claim for pay fixation in terms of the concordance table and for calculation of pension on that basis. They did not take any step in that regard till 1995.

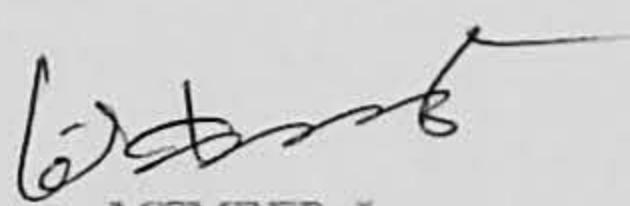
3. In the circumstances of the case the Tribunal, in our view, was right in holding that the original application filed by the petitioners was barred by limitation and hence no relief as claimed by them could be granted to them. Thus the petition being devoid of merit is dismissed.

7. The application had attempted to compare the pay scale on the analogy of one Shri Vatsa who in fact was granted promotion under the NBR Rules and on the same being pointed out the applicant fairly conceded.

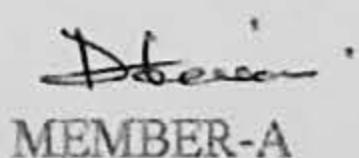
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8. The applicant has relied upon the judgment reported in 1997 (3) SCC 176. The same is not applicable inasmuch as it relates to special pay of Rs 35/- and the claim of the applicant is not on that basis. The judgment of the Apex Court in the case of O.P. Saxena (supra) squarely applies and hence, no support can be derived from the case cited by the applicant.

9. In view of the above, the OA being devoid of merits is dismissed both on limitation as well as on merit. No cost.



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