

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.258 of 2003.

Allahabad, this the 25th day of May, 2005.

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN.
HON'BLE MR. A.K. BHATNAGAR, MEMBER-J

Jag Narain Upadhaya,
S/o Sh. Chandan Upadhaya,
Aged about 50 years,
R/o 150-A, Meerapatti,
Dhoomanganj,
Allahabad.

....Applicant.

(*By Advocate : Shri S.S. Sharma*)

Versus

1. Union of India,
Through the General Manager,
Central Organization,
Railway Electrification,
Nawab Yusuf Road,
Allahabad.
2. The Chief Enginner and
Chief Personnel Officer,
Central Organization,
Railway Electrification,
Allahabad.

....Respondents.

(*By Advocate : Shri A.C. Mishra*)

ORDER

By Hon'ble Mr. A.K. Bhatnagar, J.M. :

By this O.A., the applicant has prayed for the following reliefs :-

(a) That the Hon'ble Tribunal may graciously be pleased to quash/set aside impugned order/direction dated 1.1.2002 issued by the General Manager (P)CORE, Allahabad, Respondent No.2 rejecting demand of the applicant for grant of pay scale Rs.1200-2040/- (RPS)/Rs.4500-7000/- (RSRP) at par with his junior Shri Jagannath (Annexure-A-1, Compilation No.1) to this application.

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(b) That the Hon'ble Tribunal may graciously be pleased to direct the respondents to allow pay scale of Rs.1200-2040/- (RPS)/Rs.4500-7000/- (RSRP) to the applicant w.e.f. 15.7.88 at par with his junior.

© That the Hon'ble Tribunal may graciously be pleased to direct the respondents to fix pay of the applicant in grade Rs. 1200-2040/- (RPS)/Rs.4500-7000/- (RSRP) w.e.f. 15.7.88 and to pay arrear on this account i.e. difference of pay in grade Rs.1200-2040/- (RPS)/Rs.4500-7000/- (RSRP) from 15.7.88, as allowed to his junior by the respondents.

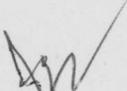
(c) That the Hon'ble Tribunal may graciously be pleased to direct the respondents to pay interest @ 12% per annum on the amount due to the applicant from the date it is due to the date it is paid to the applicant."

3. The brief facts as per the applicant are that the applicant was initially appointed as Casual in Group 'D' on 13.9.1970 and promoted as Storeman on 18.9.1970 in the grade of Rs. 210-270/-(RS) and thereafter promoted as Store Issuer grade Rs.225-308/-(RS) on 08.2.1974 and his services were regularized in Group 'D' category on 18.4.1983 in Allahabad Division. The applicant was promoted as Material Clerk grade 260-400/-(RS)/950-1500/-(RPS) on 04.7.1985 under the Dy. Chief Engineer (Construction), N. Railway, Lucknow and thereafter transferred under the General Manager/CORE, Allahabad on 15.7.1988 and since then he has been working as Material Clerk/Clerk grade Rs.950-1500/-(RPS)/Rs.3050-4590/-(RSRP) in the same Organization in Establishment Section of Headquarters Office.

4. The grievance of the applicant is that he was discriminated in granting pay scale Rs.4500-7000/- at par with his junior Shri Jagannath so he submitted various representations vide his letter dated 22.3.95, 20.7.95 and 14.6.1996 (Annexure-A-4, A-5 & A-6). For ready reference, the applicant has mentioned the particulars of the applicant and Shri Jagannath in para 4.9 of the O.A. which are as under :-



	J.N. Upadhyaya (Applicant)	Jagannath
1. Date of appointment	13.9.1970 (Casual Labour in Group 'D')	09.1.1979 (Casual Labour in Group 'D')
2. Promotion (before regularization)	(i) 18.9.1970 (Store grade Rs.210-270/-) (ii) 08.2.1974 (Store Issuer Gr.210-270/- 260-400/-)	-
3. Regularisation of services in Group 'D' post.	15.2.1982	23.11.1985
4. Division.	Allahabad Division	Allahabad Division.
5. Promoted as - (i) MCC/Clerk grade	04.7.1985	01.1.1986
Rs.260-400/950-1500/ 3050-4590/-		
(ii) MCC/Clerk Grade Rs.1200-2040/4500-7000/-		26.6.87
6. Posted under G.M./CORE, Allahabad as Clerk grade Rs.950-1500/-	15.7.88	-
7. Double Ad-hoc promotion Discontinued as per Rly. Board's order.	30.9.88 (Several employees allowed Double ad-hoc promotion thereafter Irrespective of the cadre & post in their Parent division.	-
8. Present Post & Grade.	MCC/Clerk grade Rs.3050-4590/-	MCC/Clerk Gr. Rs.4500-7000/-
9. Office.	Establishment Section of Headquarters Office G.M./CORE, Allahabad.	Subordinate Office of Section Engineer/ Works, CORE/ Allahabad.



5. From the facts as mentioned in aforesaid para it is evident that Shri Jagannath is much junior to the applicant working in the same organization. He has claimed parity with the above named person. He filed an O.A. No.1164/96 for a direction to the respondents to pay him in the grade of Rs.4500-7000/-(RSRP) as is being paid to Shri Jagannath who is junior to the applicant. The above mentioned O.A. was disposed of by following orders :-

“...The respondents have tried to justify the aforesaid difference in the pay scale of two persons who are working on similar posts. It can not be disputed that it has resulted in anomaly as the person junior to the applicant is getting higher pay scale. Both the applicant No.1 and Sri Jagannath are working in the Railway Electrification Unit on deputation basis and their lien is with the Northern Railway, Allahabad Division. They are holding the same cadre. In these circumstances, in our opinion, this anomaly is required to be removed by action of respondents.

The O.A. is accordingly disposed of finally with the direction to the respondents to consider the case of the applicant No.1 and applicant No.2 in the light of observation made above and decide their representations by reasoned order within three months from the date a copy of this order is filed before him. The applicants shall file the representations alongwith copy of this order within two weeks.”

In pursuance to this order dated 5.7.2001, the applicant submitted his representation dated 14.8.2001 and 31.8.2001 to the General Manager (P)/CORE, Allahabad for compliance of the order (Annexure-A-8 & A-9), which was rejected. The General Manager (P)/CORE, Allahabad vide letter No.E/19/pt.XXXII dated 1.1.2002 rejected the demand of the applicant for grant of pay scale Rs.1200-2040/-(RPS)/Rs.4500-7000/-(RSRP) which was being paid to his junior Shri Jagannath Annexure-A-1). The applicant filed a detailed representation dated 10.1.2002 but no action has been taken so far by the respondents. Thereafter, the applicant also filed a C.C.P. No.113/02 in O.A. No.1164/99, which was dismissed, vide order dated 22.9.2002 (Annexure-A-10), so the applicant has filed this O.A.

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6. Learned counsel for the applicant submitted that the applicant is entitled for payment in the pay scale of Rs.1200-2040/- (RPS)/Rs.4500-7000/-(RSRP) as is being paid to his junior Shri Jagannath for holding identical post and similar nature of work, under the same employer. Therefore, the claim of the applicant is based on parity of employment as well as based on established principles of 'Equal pay for Equal work'. The impugned order dated 1.1.2002 passed by General Manager (P)/CORE, Allahabad is without proper application of mind and based on totally incorrect and false grounds. Learned counsel further submitted that several employees have been granted double ad-hoc promotion even after the so called cut off date 30.9.88, but the applicant has been denied his claim. Learned counsel finally submitted that the action of the respondents in not granting the claim of the applicant at par with his junior is discriminatory, arbitrary and misuse of power and authority.

7. Resisting the claim of the applicant, the respondents filed counter affidavit and submitted that the applicant had previously filed an O.A. No.144/97 and in para 4.25 of that O.A. he has admitted "that applicant has been working in Railway Electrification organization which has been categorized as project and one ad-hoc promotion is allowed to the employees working in the department. Due to non-regularization of the services of the applicant as Clerk in his parent division he has also deprived of such benefits of ad-hoc promotions in his present organization resulting heavy financial loss to him". Therefore, the applicant is still aware of the fact that before non-regularization of services of the applicant as clerk in the parent division he is not entitled for second ad-hoc promotion.

8. Inviting our attention in para 9 of the counter affidavit, learned counsel submitted that when the applicant came to this Organization on transfer on 15.7.88 as ad-hoc material checking clerk Grade 3050-4590 while Shri Jagannath was working as ad-hoc M.C.C. in Scale Rs.1200-1800 (Rs.4500-7000) in Railway Electrification. Learned counsel further submitted that it is totally false to state that even after 30.9.88 (cut of date) several employees were allowed double ad-hoc promotion in Railway Electrification. Moreover, the regularization of Shri Jagannath in Allahabad Division is as Khalasi whereas the applicant as Gangman. The two belong to different seniority units having no comparison. Shri Jagannath was promoted on ad-hoc basis as M.C.C. in Grade Rs.3050-4590/- on 1.1.1986 and further promoted on ad-hoc basis on 26.6.1987 as M.C.C. grade Rs. 4500-7000/- as per practice in vogue at that time he got his second ad-hoc promotion in Railway Electrification. The practice of giving second ad-hoc promotion in Railway Electrification was completely discontinued vide letter No.E/O/28 dated 30.9.1988, i.e. cut of date. However, the staff who had already availed of the benefit were continued. On the other hand, the applicant joined the Organization on transfer on 15.7.1988 and on 30.9.1988 onwards the practice of double ad-hoc promotion was discontinued and its wrong to say that double ad-hoc promotion were granted to persons mentioned in the O.A. after cut of date i.e. 30.9.1988. Learned counsel finally submitted that the applicant couldn't claim parity with Shri Jagannath who comes from different seniority unit and had been given ad-hoc promotion on 26.6.1987 much before coming of the applicant in the organization. Learned counsel further submitted that due to non-regularization in the parent unit department, no second ad-hoc promotion could be given to



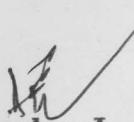
the applicant, which has been discontinued after 30.9.1988. Therefore, the O.A. is liable to be dismissed. Learned counsel for the respondents placed before us the circular dated 30.9.1988 and order passed in Bunch of cases alongwith O.A. No.144/97 filed by the applicant.

9. We have heard learned counsel for the parties and perused the records available before us.
10. We have gone through circular dated 30.9.1988 in which it is stated in para-2 that "not more than one ad-hoc promotion shall be resorted to as per extent order of the Railway Board" which gives strength to the arguments advanced by the respondents' counsel that second ad-hoc promotion in the respondents' establishment was completely discontinued vide above order dated 30.9.1988 and the staff who have already availed to this benefits were continued as in case of Jagannath who got promotion on ad-hoc basis as M.C.C. in grade Rs.3050-4590/- on 1.1.1986 and further promoted on ad-hoc basis on 26.6.1987 as M.C.C. grade Rs.4500-7000/- in Railway Electrification. We have also gone through O.A. No.144/97 in which in para 4.25, the applicant has admitted that he has been working in Railway Electrification Organization which has been categorized as project and one ad-hoc promotion is allowed to the employees working in this department. Non-regularization of the services of the applicant as clerk in his parent division he has also been deprived of such benefits of ad-hoc promotions in his present organization resulting heavy financial loss to him? The Bunch of cases including O.A. No.144/97 have been dismissed by order dated 1.6.2004. We have also gone through impugned order dated 1.1.2002 (Annexure-A-1) which is a detailed order passed in pursuance of order passed in O.A. No.1164/96

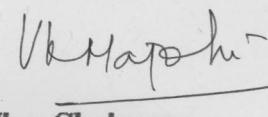
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in which all the points raised by the applicant have been duly considered.

11. Under the facts and circumstances and in view of the above, we find no illegality in the order passed by the respondents on 1.1.2002 (Annexure-A-1). We find no merit in the case of the applicant. Therefore, the O.A. is dismissed being bereft of any merit. No order as to costs.



Member-J



Vice-Chairman

RKM/-