

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

Allahabad, this the 1st day of February, 2005.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.

HON. MR. S. C. CHAUBE, A.M.

O.A. No. 295 of 2003

Nagendra Nath Verma, S/O Late S.B. Verma, R/O S-28/40-A,
Sita Ram Colony, Anola Tatakpur, Varanasi..... ..Applicant.
Counsel for applicant : Sri H.S. Srivastava.

Versus

1. Union of India through its General Manager, Northern
Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway,
Hazratganj, Lucknow.
3. The Senior Divisional Accounts Officer, Northern Railway,
Lucknow..... .. Respondents.

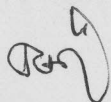
Counsel for respondents : Sri S.N. Gaur.

O R D E R (ORAL)

BY HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Sri H.S. Srivastava, learned counsel for
applicant, Sri S.N. Gaur, learned counsel for Respondents
and perused the pleadings.

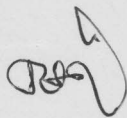
2. The applicant retired as Chief Inspector of Ticket,
Varanasi w.e.f. 30.6.1993. It appears that before his
retirement, the applicant had preferred a representation
in November, 1991 for redressal of his grievances regarding
promotion and other service benefits. By order dated
24.11.1995 (Annexure A-3), it was held that the applicant
would be taken to have been promoted as STE in grade of
Rs.425-640 w.e.f. 1.1.79 instead of 1.1.84 and his pay was
accordingly fixed at the rate of Rs.470/- p.m. w.e.f. 1.1.79
instead of 1.1.84 on proforma basis. The pay was raised
from time to time as indicated in the order dated 24.11.95
which further indicates that the applicant was given another
promotion as JIT (Junior Inspector of Ticket) in the grade



of Rs.550-750 w.e.f. 1.1.84 instead of 7.11.92. This promotion was again made a proforma promotion and his pay was fixed at Rs.570/- p.m. w.e.f. 1.1.84 in the grade of Rs.550-750 on proforma basis. The order dated 24.11.95 further shows that the applicant was given further benefit of CIT in the grade of Rs.700-900 w.e.f. 1.1.84 and his pay was fixed at Rs.700/- p.m. on proforma basis w.e.f. 1.1.84. As per revised scale, effective from 1.1.86, the scale of Rs.700-900 was replaced in the pay scale of Rs.1600-2660 (RPS) in which scale the applicant was fixed @ Rs.1800/- p.m. w.e.f. 1.1.86. This was again on proforma basis. The pay was raised after giving due increments but actual pay was given w.e.f. 7.11.92. The applicant's pay was raised to Rs.2150/- w.e.f. 1.1.93. However, it would appear from the order dated 24.11.95 that the applicant was given the benefit of grade Rs.2000-3200 and his pay was fixed @ Rs.2240/- w.e.f. 1.1.86 in the said grade on proforma basis and ~~on~~ actual payment w.e.f. 7.11.92. The applicant's pay in the said grade of Rs.2000-3200 was fixed at Rs.2675/- w.e.f. 1.1.92 which was raised to Rs.2750/- w.e.f. 1.1.93. As pointed out here in above, the applicant ~~was~~ retired on superannuation w.e.f. 30.6.93 and PPO/B/07935542 dated 17.9.1996 was issued. The applicant felt aggrieved and preferred representation dated 10.1.1997 challenging correctness of fixation of his pension. Earlier he had preferred another representation dated 20.6.96 copy of which has been annexed as Annexure A-4. Since the representations were not decided the Applicant preferred O.A. No.1445 of 1997 praying for the following reliefs :-

- "a) That by means of suitable order or direction in the nature of mandamus commanding the respondents to make the payment of difference of pay, increment and other benefit of retirement as are admissible under rule.

It is further prayed that this Hon'ble Court may graciously be pleased to direct the Respondents to make the fixation of pension



keeping in view of pay revised Rs.2750/- and make the payment of arrears with the interest at the rate of 18% per annum.

- b) That by means of suitable order or direction in the nature of mandamus commanding the respondents to make the payment of gratuity, provident fund and other benefits as are admissible under rule with interest thereof."

3. The aforesaid O.A. came to be disposed of by order dated 16.7.2001 with the direction that the pending representation of the applicant dated 10.1.1997 be decided by the competent authority within six weeks from the date of communication of the order and to pass detailed, reasoned and speaking order with specific reference to the last pay drawn by the applicant and formula under which the pension of the applicant has been computed. It was further provided that in case the applicant is found entitled to further benefits, same be provided to him within two months thereafter.

4. Acting upon the said direction, the respondents have passed an order dated 22.3.2002, which reads as under :-

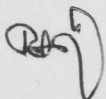
"In compliance of Hon'ble CAT's orders in OA No. 1445 of 1997 your representation dated 10.1.97 has been considered by the competent authority and after examination it is noticed that your settlement has been arranged on pay Rs.2750/- P.M. and as per extant rules your pension has been correctly fixed Rs.1287/- based on the ten months average emoluments as per extant rules."

5. The grievance of the applicant herein is two fold. First, that respondents were not justified in giving him retrospective promotion with ^{out} actual benefits, and second, that his pension ought to have been fixed @ Rs.1360/- p.m. instead of Rs.1287/-. In the earlier O.A., the case of the applicant was ^{that his} ~~to fix~~ the pension at Rs.1375/- p.m. However, ^{ought to be fixed} as stated in paragraph 4(IX) of the present O.A., the claim

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made by the applicant is that his pension should be fixed @ Rs.1360/- p.m. on the basis of average monthly emoluments drawn by him during the last 10 months of his retirement. Case of the applicant is that he was entitled to salary of Rs.2675/- p.m. for four months and for another six months, the applicant was entitled to be paid @ Rs.2750/- and the total emolument of salary payable to the applicant during last 10 months, according to him, was Rs.27,200/- on which monthly pension comes to Rs.1360/-. The applicant, it is not disputed, had completed 33 years of qualifying service. In respect of his claim for actual arrears of pension, the applicant has placed reliance on the decision of Supreme Court in P.S. Mahal V. Union of India (1984 C.S.1291), followed by the Principal Bench of the Tribunal in Mrs. R.K. Jain Vs. Delhi Administration (Delhi) ATR 1987(1) CAT 362 wherein it has been held that since the petitioner therein was denied promotion for no fault of her and the orders for promotion were issued retrospectively, she would be entitled to arrears of pay and allowances on the basis of her pay fixation from the date of her retrospective promotion and also approval of increments in the higher post of Dy. Nursing Superintendent from the date of retrospective promotion. Reliance has also been placed on a decision of the Supreme Court in Narender Chadha & Ors. v. Union of India & Ors. ATR 1986 SC 49 and Om Prakash v. Union of India & Ors. ATR 1987(2) CAT 679 in support of his contention that in case of promotion with retrospective effect, the promotee will be entitled for the arrears in case it is found that the promotee was not at fault.

6. Having heard counsel for the parties and upon ^{being read &} regard^g to the direction issued by the Tribunal in the earlier case, we are of the view that the impugned order dated 22.3.2002, which purports to have been passed in compliance of the direction given by the Tribunal vide order dated 16.7.2001 in O.A. No.1445 of 1997, cannot be




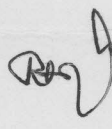
sustained. The Tribunal had directed the competent authority to consider and decide the representation of the applicant by a reasoned and speaking order and by disclosing the formula on the basis of which computation of pension was made but the order impugned has been passed without disclosing the formula on the basis of which the applicant's pension has been computed and further the impugned order is conspicuously silent on the arrears of pay and actual benefits of retrospective promotion.

7. We are, therefore, of the view that the respondent's competent authority should be called upon to decide the representation of the applicant afresh by a reasoned order after ~~self~~ proper ^{Self-} direction to the applicant's claim regarding arrears of salary and actual benefits of retrospective promotion given vide order dated 24.11.95 and fixation of pension in accordance with rules. The decision shall be taken within a period of two months.

8. Accordingly, the O.A. is allowed and the impugned order is set aside. The respondents are directed to decide the representation of the applicant afresh by a reasoned and speaking order after ~~self~~ proper ^{Self-} direction to the applicant's claim within a period of two months from the date of receipt of a copy of this order.

No order as to costs.


A.M.


V.C.

Asthana/