

OPEN COURT.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.96 of 2003.

Allahabad this the 30th day of April 2003.

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

Hira Prasad Chaurasia
Son of Late Shiv Charan Chaurasia,
Resident of House No.105, Azad Nagar
Bichiya near Nehru Inter College,
Bichiya, District Gorakhpur.

.....Applicant.

(By Advocate : Sri V.C. Dixit)

Versus.

1. Union of India
through General Manager,
N.E. Railway
Gorakhpur.
2. Chief Personnel Officer,
N.E. Railway,
Gorakhpur.
3. Chief Commercial Officer,
N.E. Railway,
Gorakhpur.
4. Assistant Commercial Officer,
N.E. Railway
Gorakhpur.
5. Moin Uddin
Son of Sri Abdul Rahim,
Resident of Mohalla Khunipur
Working as Driver Grade-II,
N.E. Railway, Gorakhpur.

.....Respondents.

(By Advocate : Sri K.P. Singh)

O_R_D_E_R

(HON'BLE MAJ GEN KK SRIVASTAVA, A.M.)

In this O.A., filed under section 19 of
Administrative Tribunals Act 1985, the applicant has
prayed for direction to the respondent No.2 to consider
the claim of the applicant filed before respondent
No.2 through his representation dated 30.09.2002.

The applicant has further prayed for direction to

respondents to fix the pay of the applicant in the pay scale of Rs.1200-2040 forthwith with all the benefits treating the applicant in the pay scale of Rs.1200-2040 from 05.05.1987.

2. The facts, in short, giving rise to this O.A., are that the applicant was initially appointed as adhoc Driver in the respondents' establishment on 01.01.1981. He was regularised on the post of Driver on 02.03.1983. The applicant was promoted to the post of Driver Grade-II on 05.05.1987. The applicant went on deputation to Iraq on 24.02.1988 and continued there till 27.06.1990. On return from Iraq, the applicant found that he had been given lower scale. He made number of representations but of no avail. The Seniority list of Driver as on 01.01.1993 was published in which the applicant stands senior to respondent No.5. Respondent No.5 filed O.A. No.756 of 1997 before this Tribunal which was allowed by order dated 19.01.2001 and respondent No.5 was allowed the pay scale of Rs.1200-1800. The grievance of the applicant is that since he is senior to respondent No.5 he should atleast ^{be} given the same scale in which respondent No.5 has been placed. He filed a representation before respondent No.2 on 30.09.2002 followed by repeated reminders but respondent No.2 has taken no action to redress the grievance of the applicant hence this O.A.

3. Learned counsel for the applicant submitted that the illegality on the part of the respondents ^{is} obvious from the very fact that the respondent No.5 who is admittedly junior to the applicant has been given a higher pay scale.

4. Sri K.P. Singh learned counsel for the respondents raised a preliminary objection on the maintainability of the O.A., on the ground of limitation. He submitted that in the relief clause the applicant has claimed for the scale of Rs.1200-2040 w.e.f. 05.05.1987. The applicant has filed this O.A. on 30.01.2003. The O.A., is highly time barred and is liable to be dismissed. The second submission of the learned counsel for the respondents is that it is also doubted if applicant has filed his representation because no such representation with acknowledgement by respondents has been received. A copy of the representation filed in this O.A. Learned counsel for the respondents prayed for filing the Counter Affidavit. However, we are of the view that the O.A. is fit for deciding at admission stage and therefore, there is no requirement of calling for counter affidavit.

5. We have heard learned counsel for the parties and perused records. We have also considered their submissions.

6. On perusal of seniority list of the Drivers filed as Annexure-5, we have no doubt in our mind that the applicant is senior to the respondent No.5. The name of the applicant as well as that of respondent No.5 are shown at Sl.Nos.7 and 8 respectively in the Seniority list of Motor/Jeep, in the pay scale of Rs.1200-1800.

7. Learned counsel for the applicant has submitted that the respondent No.5 is drawing the pay scale of Rs.1200-1800 whereas this scale has been denied to the applicant and he is being paid the pay scale of Rs.950-1500. If that be so, we are of the view that

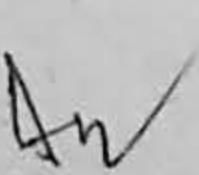
there is something wrong somewhere.

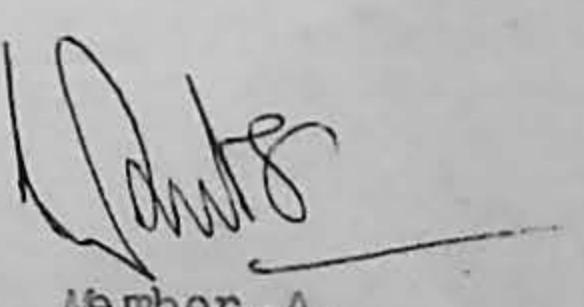
8. The applicant has filed a copy of representation dated 30.09.2002 as Annexure-1 (page 15 of O.A.). It was primary duty of the respondents to have looked into the grievance of the applicant and decided the representation of the applicant within reasonable time which has not been done so. We are of the view that the interest of justice shall better be served if the respondents are directed to decide the representation of the applicant dated 30.09.2002 by a reasoned order within a specified time. The O.A., is finally disposed of at ^{the} admission stage itself with following directions to the respondent No.2:

i) Respondent No.2 is directed to decide the representation of the applicant dated 30.09.2002 by a reasoned and speaking order within a period of three months.

ii) In case the claim of the applicant is found to be correct, the pay of the applicant will be fixed in the ^{said} pay scale ^{No 1200-1800} from the date his junior ^{has been} drawing the same ensuring that the applicant does not draw ^{any} lesser pay than his junior. The applicant shall be entitled for the arrears on account of re-fixation.

9. The O.A. is disposed of with the above directions with no order as to costs.


Member-J.


Member-A.

Manish/-