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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 17th day of **NOVEMBER** 2006.

Original Application No. 1195 of 2006

Hon'ble Mr. P.K. Chatterji, Member (A)

Mohd. Faruk, S/o late Sheikh Mohammad,
R/o KW-25, J.K. Ashiyana, Kareilly, Allahabad,
Presently working as Waiting Room Bearer,
Under the station Superintendent, Railway Station,
ALLAHABAD.

. . . Applicant

By Adv: Sri S.K. Om

V E R S U S

1. Union of India through General Manager,
N.C. Railway,
ALLAHABAD.
2. Senior Divisional Railway Manager,
N.C. Railway,
ALLAHABAD.
3. Assistant Personnel Officer,
N.C. Railway,
ALLAHABAD.
4. Superintendent, Carriage and Wagon,
N.C. Railway,
KANPUR.

. . . Respondents

By Adv: NIL

ORDER

The case of the applicant in this OA is that the applicant who was working as Khalasi in the Railway met with an accident on 24.03.1998 leading to amputation on both his legs. He was declared to be medically decategorised by the respondents and, thereafter, he was directed to perform the job job

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of waiting room bearer at the pay scale of Rs. 2550-3200. The applicant is aggrieved that while his pay scale as Khalasi was 2650-4000, after decategorization his pay scale has been reduced in violation of the orders of the Railway Board dated 29.04.1999 in which it was categorically laid down as follows:

"13.01: A Railway servant who fails in a vision test or otherwise by virtue of disability required during service becomes physically incapable performing the duties of the post which he occupies should not be dispensed with or reduced in rank, but should be shifted to some other post with the same pay scale and service benefits."

2. The applicant had made a representation to the respondents drawing their attention to the Railway Board's circular dated 29.04.1999 and requested them to re-fix his pay on the same pay scale as that of Khalasi. The respondents rejected his representation by saying that it was not applicable as the decategorization was made prior to the issue of the Railway Board Circular dated 29.04.1999. The applicant has also drawn the attention of the Tribunal to another circular of the Railway Board dated 31.05.2005 wherein it has been stated that the provisions of the Ministry Letter dated 29.04.1999 would be effective retrospectively from 07.02.1996. In other words the applicant's claim is that by virtue of this circular he should be given the same pay scale as that of Khalasi. However, this claim was also rejected by the respondents on the ground that the applicant produced the circular rather late.

3. The learned counsel for the respondents has stated that the applicant could not ask for this consideration earlier for the simple reason that the Ministry decided on the retrospective effect of the circular dated 29.04.1999 only as late as on

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31.05.2005. Therefore, there was no scope for the applicant to file any representation earlier. The allegation of the applicant *is also* that for the period he was incapacitated his absence should be regularized as per provisions of 13.30 of the circular dated 29.04.1999 i.e. by creating special supernumerary post in the same pay scale. This request is also not been favorably considered by the respondents.

4. Keeping in view the representation of the applicant in mind and having seen the circular of the Ministry dated 29.04.1999 and 31.05.2005 I am of the view that there are enough reasons for the applicant's request to be reconsidered in the light of the provisions contained in those circulars.

5. It is, therefore, directed that respondent No. 1 i.e. General Manager, N.C. Railway, Allahabad would treat this OA as a representation and consider his request for the same pay scale and regularization of the intervening period in the light of the relevant provisions of the above mentioned two circulars and take appropriate decision as admissible therein. After considering the matter, respondent No. 1 ^{shall} issue a reasoned and speaking order within a period of four months from the date of receipt of copy of this order. No cost.

Member (A)

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