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OPEN COURT ,

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 15TH day of JULY 2008.

Original Application No. 174 of 2007

Hon'ble Mr. N.D. Dayal, Member (A)

Hon'ble Mr. Ashok S. Karamadi, Member-J

Hridai Narain Misra, Aged about 48 years, S/o late
Sri Ram Nath Mishra, R/o H.No.316 Chaturbhujpur,
Post Mughalsarai, District Chandauli.

. . . Applicant

By Adv: Sri B.N. Singh

V E R S U S

1. Union of India through its General Manager,
East Central Railway, Hazipur.
2. D.R.M. E.C. Railway, Mughalsarai.
3. Sr. Divisional Personnel Officer, E.C. Railway,
Mughalsarai.
4. Sr. Commandant, RPF, E.C. Railway Mughalsarai.

. . . Respondents

By Adv: Sri Rajiv Sharma

With

Original Application No. 173 of 2007

Ravi Shanker Singh, Aged about 37 years, S/o
Sri Gupteshwar Singh, R/o Village Bajahan, Post
Gauri, District Chandauli.

.....Applicant.

By Advocate : Sri B.N. Singh

V E R S U S

1. Union of India through its General Manager,
East Central Railway, Hazipur.
2. D.R.M. E.C. Railway, Mughalsarai.
3. Sr. Divisional Personnel Officer, E.C. Railway,
Mughalsarai.
4. Sr. Commandant, RPF, E.C. Railway Mughalsarai.

. . . Respondents

By Adv : Sri R. Sharma

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With

Original Application No. 175 of 2007

Ranjit Kumar Sharma, Aged about 58 years, S/o late Sri S.N. Sharma, R/o Qr. No. 1013 D Shastri Colony, Mughalsarai.

.....Applicant.

By Advocate : Sri B.N. Singh

V E R S U S

1. Union of India through its General Manager, East Central Railway, Hazipur.
2. D.R.M. E.C. Railway, Mughalsarai.
3. Sr. Divisional Personnel Officer, E.C. Railway, Mughalsarai.
4. Sr. Commandant, RPF, E.C. Railway Mughalsarai.

. . . Respondents

By Advocate : Sri R. Sharma

O R D E R

N.D. DAYAL, MEMBER-A

As the facts of the case and law involved in all three O.As are common and identical and as such they have been heard together and decided by passing a common order.

2. The prayer of the applicants in these cases is for grant of same pay scale, which they were getting at the time of medical de-categorization while working as Constable in RPF in the Railway. It is submitted that the applicants are now Head Bearer and their pay scale stands reduced. He submits that earlier the applicants were drawing the pay-scale of Rs. 825-1200 and now they are in the grade of Rs. 775-1025/-. These are old pay-scale because the issue is of 1995. However, application for condonation of delay was allowed by order passed on 8.4.2008.

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3. The learned counsel for the applicants states that the Rule in the Railways as also the judgment passed by Hon'ble Supreme Court, in particular, judgment in Kunal Singh Vs. Union of India & Others reported in 2003 SCC (L&S) 482 had considered the persons with Disabilities Act 1995, held that even if alternative post is given to a person who has secured disability to some other post, but the same pay scale and service benefits have to be maintained. In this background, the applicants are seeking setting aside the order-dated 9.2.1995 whereby after screening committee had considered their case and they were given the post of Head Bearer in the pay scale of Rs. 775-1025/-. It is further prayed that alternative employment may be provided in Group 'C' with admissible pay-scale and fixed seniority from the initial appointment etc. We find that in so far as the post is concerned, the respondents have the authority to provide the some other post, but in so far as the pay-scale is concerned, it cannot be reduced and pay of the applicants was also required to be protected. The applicants are stated to be still in service as Head Bearer in Group 'D' post, whereas the post of Constable in RPF was Group 'C' post. It is submitted that in terms of relevant rules, there is a provision in IREM Vol.I that according to the availability of post in terms of seniority, if initially allowed to a lower post, but subsequently the applicants can be adjusted in appropriate post on their own level. Therefore, we dispose of all three O.As after setting aside the impugned order dated 9.2.1995 with direction to the respondents to take steps in accordance with law and extend to the applicants the same pay-scale as they were drawing at the time when they were Constable in RPF and when they were medically de-categorized as it was at that

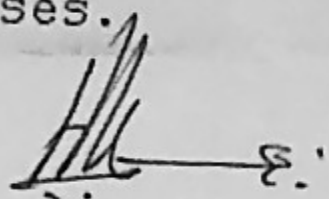
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time on the appropriate date and thereafter release to them the arrears which may be due on that account within a period of three months from the date of receipt of a certified copy of this order. In due course of time they may also in accordance with law, provide the suitable posts with commensurate to their earlier post at the time when they were medically de-categorized. The order of Hon'ble Supreme Court in Kunal Singh is taken on record.

4. All three O.As stand disposed of in the above terms with no order as to costs.

5. Copy of this order be placed in all the connected cases.



MEMBER-J

GIRISH/-



MEMBER-A