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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 372 OF 1987
T.A. No.

DATE OF DECISION 4-11-1988

Shri Asulal U. Kuraria, Petitioner

M.R. Anand, Advocate for the Petitioner(s)

Versus

Union of India Respondent

Mr. N.S. Shevde. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.M. JOSHI : JUDICIAL MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

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2. Asulal U. Kuraria,
Chief Goods Supervisor,
G.N.F.C.Siding,
Western Railway,
Broach.

....Petitioner

(Advocate Mr. M.R. Anand)

Versus

1. Union of India,
Divisional Rail Manager,
Western Railway,
Pratapnagar,
Baroda.

2. Union of India,
(Rail Ministry),
Rail Bhavan,
New Delhi.

....Respondents.

(Advocate Mr. N.S. Shevde)

O R A L - O R D E R

O.A. No. 372 OF 1987

Date : 4-11-1988.

Per : Hon'ble Mr. P.M. Joshi : Judicial Member

The petitioner, Shri Asulal U. Kuraria, serving as Chief Goods Supervisor in the Western Railway, at Broach, has filed this application under section 19 of "the Administrative Tribunals Act, 1985," on 28.7.1987. It is averred by the petitioner that in the year 1981 he was working in the post of Goods Supervisor in the pay scale of Rs.500-750 and his junior Shri K.K. Dhodi, was also working in the same post. According to the case set up by the petitioner, he and his junior Shri Dhodi were selected for the post of Chief Goods Supervisor and as per the seniority list of the Chief Goods Supervisor he is at Sl.No. 4 and

Shri K.K. Dhodi is at Sl.No. 5. It is alleged that even though the petitioner and his junior Shri K.K. Dhodi have been promoted to the post of Chief Goods Supervisor w.e.f. 1.1.1984 vide order dated 2.10.1984, his pay has been fixed at Rs. 2,240/- and w.e.f. 1.1.1986 in the pay scale of Rs. 2000-3,200; vide order dated 8.12.1986 (Annexure-B); whereas, it has been fixed at Rs. 2450/- in the case of his junior vide order dated 28.11.1986 (Annexure-A). The petitioner's representation for redressal of his grievance to remove anomaly remained undecided by the respondents. He has therefore, claimed the reliefs in the following terms : -

- (1) Direct the Respondent-authorities to confer up on the petitioner, the benefit of stepping up with effect from the date his immediate junior Shri K.K.Dhodi was promoted to the higher post of Chief Goods Supervisor.
- (2) To direct the Respondents-authorities to pay the arrears of pay due to stepping up from the year 1981 with 12 percent interest.
- (3) Any other appropriate relief deem just and proper by the Hon'ble Tribunal in the facts and circumstances of the case, including the cost of this application.

2. The respondents have resisted the petitioner's application contending inter-alia that Shri K.K.Dhodi, while serving at Kankeriya, had officiated in the scale of Rs. 700-900 (R) by way of local arrangement from 1.11.1981 to 31.12.1983 and he was granted the officiating increments raising his pay to Rs.760-~~400~~/- basic, ^{with} ~~Rs.60~~-2 increments, for 2 years, and as such, he was drawing Rs.760/- from 1-1-1984, whereas applicant

was drawing pay Rs.650/- in lower scale Rs.550-750 (R). According to them, the pay of the petitioner as well as Shri K.K. Dhodi as on 1.1.1986 was correctly fixed at Rs. 2240/- per month and Rs.2450, p.m. in the revised pay scale Rs. 2000-3200/- (R.P.) on the basis of pay drawn by them in the corresponding grade of Rs.700-900 (R), Viz., Rs. 760 and Rs. 795, respectively.

3. When the matter came up for hearing Mr. M.R.Anand and Mr. N.S.Shevde the learned counsel for the petitioner and the respondents respectively are heard. The materials placed on record are also perused and considered.

4. During the course of his submission Mr.N.S.Shevde the learned counsel for the respondents while reiterating the plea raised by the respondents in their counter, pressed in the service the instructions contained in Railway Board circular No. PC-III-74/ROP-1-32 dated 4-9-1974 (Annexure-R-I), the material portion thereof reads as under : -

In order to remove the above anomaly, the President is pleased to decide that in such cases the pay of the higher post senior employee in the revised scale in the higher post should be stepped up to a figure equal to the pay as fixed for the junior employee in that higher post promoted on or after 1-1-1973. The stepping up should be done with effect from the date of promotion of the junior employee and should be subject to the following conditions : -

- (a) Both the junior and senior employee should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

- (b) The unrevised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical and
- (c) The anomaly should be directly as a result of the application of the provisions of Rule 2018 B (F.R. 22 C)-RII in the revised scale. For example, if even in the lower post, the junioremployee was drawing more pay in the un-revised scale than the senior by virtue of fixation of pay under the normal rules or any advance increments or due to accelerated promotion etc., the provisions contained in this decision need not be invoked to step up the pay of the senior employee.


5. Mr. M.R. Anand the learned counsel for the petitioner, at out set declared that even though the petitioner has a grievance against the ad hoc promotion given to his junior Shri K.K. Dhodi, on the basis of the local arrangement in the year 1981 in violation of the rule and the petitioner may be justified in claiming the arrears of the pay due to stepping up from 1981, but, he restricts his relief to para 7 (1) only. According to him the conditions laid down in the Railway Boards' circular relied upon by the respondents are fully complied with in the case of the petitioner. In his submission, the inaction on the part of the respondents in removing the anomaly is bad in law as the petitioner is entitled to the benefit of stepping up of pay at par with his junior Shri Dhodi, under F.R.-22 C.

6. The fact that the petitioner and Shri Dhodi, were working as Goods Supervisor in the pay scale of Rs. 550-750/- prior to 1.1.1984, is not indispute. Moreover the fact that the petitioner was Senior to Mr. K.K. Dhodi in the said scale is not controverted. It is conceded that both of them were placed on the panel of the candidates selected for the post of Chief Goods Supervisor carrying pay scale Rs. 700-900 (R). Admittedly, both of them are promoted to the post of Chief Goods Supervisor on regular basis with effect from 1.1.1984. Thus, the petitioner and his junior Shri K.K. Dhodi, were in the same cadre and the post to which they have been promoted is identical and in the same cadre. It is also conceded that the scale of Chief Goods Supervisor has been revised to Rs. 2000-3000 (R.P.) with effect from 1.1.1986. The petitioner, on his promotion as Chief Goods Supervisor was drawing his pay at Rs. 760/- w.e.f. 1.1.1984. However, his junior Shri K.K. Dhodi was drawing the pay at Rs. 795/- per month. It is said that Shri K.K. Dhodi earn two increments when he officiated the higher post on the basis of a local arrangement and accordingly on his promotion, he was drawing higher pay. In this application, the Tribunal is not called upon to decide the merits of the higher fixation, of pay, done in the case of the petitioner's junior Shri K.K. Dhodi. Evidently, the result of the anomaly is clearly and directly, as a result of the application of FR-22 C. Thus, the conditions even laid down in Railway Board's circular dated 4.9.1974 are squarely complied with. The respondents have committed a

serious error in not rectifying the anomaly by giving the stepping up of the pay to the petitioner on par with his junior with effect from 1.1.1984.

7. In view of the aforesaid findings made above, the application succeeds. The inaction on the part of the respondents in not rectifying the anomaly of the fixation of pay of the petitioner, is not justified. The respondents are therefore, directed to rectify the anomaly in fixation of pay of the petitioner w.e.f. 1.1.1984 and relate his pay on par with his junior Shri K.K. Dhodi, in such manner that the anomaly is not further perpetuated. The respondents are further directed to work out the difference in the arrears of the pay on re-fixation of pay and the same be paid to the petitioner within 3 months from today.

Accordingly, the application stands disposed of with the directions stated above. There will be however no order as to costs.


(P.M. JOSHI)
JUDICIAL MEMBER