

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

40

C.A.92/95 in

O.A.NO. 253/90**~~T.A.NO.~~**DATE OF DECISION 14.8.1996Shri Jyotiravdan Himatlal Jani PetitionerMr.M.M.Xavier Advocate for the Petitioner [s]
VersusUnion of India & Ors. RespondentMr.R.M.Vin Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Radhakrishnan

: Member (A)

The Hon'ble Mr.

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

no

Shri Jyotirvaan Himatlal Jani,
Bhavnagar.

: Applicant

(Advocate: Mr.M.M.Xavier)

Versus

The Union of India
Through:

1. Shri M.Ravinara,
General Manager,
Western Railway,
Churchgate, Bombay-400 020
2. Shri S.P.Singh,
Chief Works Manager,
Western Railway,
Ajmer.
3. Shri N.P.Fulzele,
Works Manager,
Western Railway,
Bhavnagar Para Workshop
Bhavnagarpara-364 003.

: Contemnors

(Advocate: Mr.R.M.Vin)


ORAL ORDER

C.A.92/95 in
O.A.253/90

Date: 14.8.1996

Per: Hon'ble Mr.V.Radhakrishnan : Member (A)

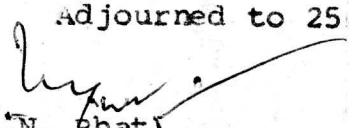
Mr.Vin placed on record a letter dated 31.7.1996 from WM's Office, BVP that payment amounting to Rs.4603/- have been paid to the applicant. In view of the compliance of the order, he states that ^{there is} no case for Contempt Application. In view of the above, the Contempt Application is disposed of. In case ^{OK} any difficulty in future, the applicant is at liberty to revive the Contempt Application. Notice discharged.



(V.Radhakrishnan)
Member (A)

23.4.97

Heard both sides on M.A.772/96 which seeks revival of the earlier contempt petition on the ground that the respondents had not fully complied with the direction of the Tribunal in O.A.253/90. The only grievance subsisting for the complainant is that even though he has got promotion to higher levels from the date the juniors are promoted, he has however not been given arrears on promotion to the level of 2000-3200 for the period from November 1991 to 1st March, 1993. The Railway Administration has taken the view in terms of para 228 of IREM (enclosed as Annexure R to their reply statement.) arrears in such a situation is not admissible. There is some doubt as to whether the para 228 has since undergone any modification on the basis of Court directions. Mr. Vin for the respondents will ascertain the position in this regard. If Mr. Xavier for the complainant is able to produce any material in this regard he is also at liberty to do so.

Adjourned to 25.6.1997.


(T.N. Bhat)
Member(J)




(V. Ramakrishnan)
Vice Chairman

vtc.

Date	Office Report	ORDER
2.4.97		<p>Mr. Vin prays for two weeks time to file reply to M.A. 772/96. Adjourned to 23.4.1997.</p> <p style="text-align: right;"><i>VR</i> (V.Ramakrishnan) Vice Chairman.</p> <p>vtc.</p>
23.4.97		<p>Heard both sides on M.A. 772/96 which seeks revival of the earlier contempt petition on the ground that the respondents ^{had} are not fully complied with the direction of the Tribunal in O.A. 253/90. The only grievance subsisting for the complainant is that even though he has got promotion ^{to higher} in such a level ^{from} for the date the juniors are promoted, he ^{has} however given ^{unbear} financial effect ^{on} and arrears ^{to} for promotion the level of 2000-3500 for the period from November 1991 to 1st March, 1993. The Railway Administration has taken the view in terms of para 228 of IREM enclosed as Annexure R to their reply statement arrears in such a situation is not admissible. There is some doubt as to whether the para 228 ^{for} is since undergone any modification on the basis of Court directions. Mr. Vin for the respondents will ascertain the position in this regard. If Mr. Xavier for the complainant is able to produce any material ^{he} he is also at liberty to do so.</p> <p style="text-align: center;">Adjourned to 25.6.1997.</p> <div style="display: flex; justify-content: space-between;"> <div data-bbox="617 2162 820 2232">(T.N. Bhat) Member(J)</div> <div data-bbox="1133 2162 1433 2232">(V.Ramakrishnan) Vice Chairman</div> </div> <p>vtc.</p>

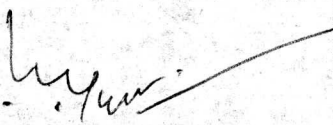

Date	Office Report	ORDER
3.12.96	<p>Issue notice on M.A. returnable on 6.1.97.</p> <p>(V.Radhakrishnan) Member (A)</p> <p>vtc.</p>	<p>Issue notice on M.A. returnable on 6.1.97.</p> <p>(V.Radhakrishnan) Member (A)</p> <p>vtc.</p>
6.1.97	<p>Mr. Xavier, counsel for the applicant not present. Adjourned to 23.1.1997.</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>	<p>Mr. Xavier, counsel for the applicant not present. Adjourned to 23.1.1997.</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
24.1.97	<p>Mr. Xavier has filed sick note. Adjourned to 26.2.1997.</p> <p>(T.N. Bhat) Member (J)</p> <p>vtc.</p>	<p>Mr. Xavier has filed sick note. Adjourned to 26.2.1997.</p> <p>(T.N. Bhat) Member (J)</p> <p>vtc.</p>
26.2.97	<p>Mr. Xavier states that the issue involved relates to payment of arrears for the period from November 1991 to 1st March, 1994. Mr. Vin prays for time to ascertain the present position and to file reply to the M.A. 772/96. Adjourned to 2.4.1997.</p> <p>(T.N. Bhat) Member (J)</p> <p>vtc.</p>	<p>Mr. Xavier states that the issue involved relates to payment of arrears for the period from November 1991 to 1st March, 1994. Mr. Vin prays for time to ascertain the present position and to file reply to the M.A. 772/96. Adjourned to 2.4.1997.</p> <p>(T.N. Bhat) Member (J)</p> <p>vtc.</p>

44

Date	Office Report	ORDER	ORDER
25.6.97		Seen leave note filed by Mr.Xavier. Adjourned to 23.7.97.	 (V.Ramakrishnan) Vice Chairman
23.7.97		ssh* Seen sick note filed by Mr. Xavier. Adjourned to 20.8.1997. vtc.	 (V.Ramakrishnan) Vice Chairman

45

Date	Office Report	ORDER	ORDER	Date
20.8.97		<p>We have heard Mr. Xavier for the complainant and Mr. Vin for the respondents.</p> <p>2. In O.A.253/90 the Tribunal directed that the applicant shall be given the benefit of regular promotion with all consequential benefits limiting arrears of pay consequent on his promotion in the scale of Rs.425-700 with effect from 30.5.1989. It is not in dispute that most of the directions have been carried out. The only controversy at present relates to payment of arrears in the scale of 2000-3200 for the period from 12.11.91 upto 1.3.93. As per the railway Administration letter dated 23.4.96 and 24.4.96 the complainant was given only proforma promotion for this period. Mr.Vin submits that what the Railway administration has been done it in consonance with the relevant rule namely Para 228 of the IREM which provides even if the person has not been promoted because of an administrative error he is not entitled to arrears. Mr. Xavier disputes this contention and draws attention to the judgment of the Calcutta Bench in the case of Sujit Baran Rakshit & Ors. v/s. Union of India & Ors.(1996)33 ATC 596 para 17 & 18 thereof. He states that arrears cannot be denied on the ground that due to wrong action on the part of the Railway authorities, the petitioners have been denied promotion. We find the present case is squarely covered by the decision of the Calcutta Bench. We note that the Department has given only proforma promotion to the applicant with effect from 12.11.91 and given the financial benefits w.e.f. 1.3.93. We direct the Railway Admn. to pay</p>		

Date	Office Report	ORDER
		<p>whatever amount is due to him in terms of fixation of pay in the scale of 2000-3200 with effect from 12.11.91 upto 1.3.93 less than what has been paid so far. They shall carry out this direction within three months from today.</p> <p>M.A.772/96 is disposed of accordingly.</p> <div data-bbox="567 652 945 862"> (T.N. Bhat) Member(J)</div> <div data-bbox="1134 652 1443 862"> (V. Ramakrishnan) Vice Chairman</div> <p>vtc.</p>