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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 442 OF 1990
~~K.A. No.~~

DATE OF DECISION 06.05.1992.

Ved Prakash Chopra Petitioner

Mr. P. K. Handa Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

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

CORAM :

The Hon'ble Mr. R. C. Bhatt : Member (J)

The Hon'ble Mr.

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

Ved Prakash Chopra,
S/o.Late Shri Gurudutt Mal Chopra,
Personnel Assistant to
Sr.Proff.Corporate Management,
Railway Staff College,
Baroda.

H.NO. 153-C,
Railway Staff College,
Baroda - 390 004.

...Applicant.

(Advocate:Mr.P.K.Handa)

Versus

1. Union of India
Secretary,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. The Principal,
Railway Staff College,
Opp. Lal Baug,
Vadodara - 390 004.

...Respondents,

(Advocate : Mr.N.S.Shevde)

O R A L J U D G M E N T
O.A. NO. 442 OF 1990.

Date :06.05.1992.

Per : Hon'ble Mr.R.C.Bhatt : Member (J)

This application under Section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant, working as Personal Assistant to Sr.Proff. Corporate Management, Railway Staff College, Vadodara, in scale of Rs.1,600 to 2,660 (R.P.), seeking the relief that the respondents be directed to fix the pay of the applicant at Rs.640/- with effect from 28th February, 1985, which he was drawing at the last occasion and to pay the arrears of difference of salary and allowances from 28th Feb.1985, on wards.

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2. The case of the applicant is that initially he was recruited as a Typist in the Survey and Construction Department on 21st March, 1961, and after due promotions he was promoted to the post of a 'CA' in scale of Rs.425-700/- with effect from 14th March, 1972. According to him, the lien of the applicant is kept in the open line, with Rajkot Division and he opted, The Railway Staff College at his own request as a Stenographer in the then Scale of Rs.330-560/- (R) and his pay was fixed at the stage of Rs.476/- and he was assigned the bottom seniority. The applicant joined in the Railway Staff College with effect from 24th May, 1984. According to him, he was officiating in the grade of Rs.425-700 (R) continuously since 14th March, 1972. He was again promoted on a regular basis to the post of CA in the then scale of Rs.425-700 (R) with effect from 28th February, 1985, but according to him his pay was fixed in violation of Rule-FR-22 and FR-22-(C), corresponding Rule-1313 and Rule 1316, of the Railway Establishment Code. He made representations to the respondents which have been produced in this case. It is the case of the applicant that the respondents have committed an error, in fixing his pay at Rs.515/-. According to him, his scale ought to have been fixed at Rs.640/- ^{according} ~~to~~

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to Rule FR-22-C. The main ground mentioned in the application is that the applicant was previously officiating in the same time scale of Rs.425-700 (R), and his --- pay on subsequent promotion to the same scale with effect from 28th February, 1985, should not be less than the pay what he had drawn on last occasion. The applicant was drawing the pay at Rs.620/- in the pay scale of Rs.425-700 (R) and his date of increment was 1st April, 1984, and according to him, he is entitled to ^{draw} Rs.640 on 28th February, 1985. The applicant has produced the relevant documents on record.

3. The respondents have contended in the reply that the applicant who was officiating in the scale of Rs.425-700 (R) in the construction organisation was rendered surplus and he sought an appointment as a Stenographer in the lower grade of Rs.330-560 (R) in the Railway Staff College from 24th May, 1984, and was assigned bottom seniority and this appointment was made at his own request, and in that post his initial pay was fixed at Rs.476/-. It is contended that as the vacancy arose in the Staff College then the applicant was promoted with effect from 21st February, 1985, to the post of CA in the scale of Rs.425-700 (R) but at that time his pay was in the lower scale of Rs.330-560, and he was getting pay Rs.488/- and due to his promotion his

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pay was accordingly fixed at Rs.560/-. It is contended that the applicant is not entitled to the scale which he ~~has~~ demanded in the application.

4. The applicant has filed the Affidavit, in rejoinder controverting the contentions taken by the respondents in the reply.

5. I have heard the learned advocates and I have also examined the FR-22 and FR-22-C, and Rule-1313 and Rule-1316, of the Indian Railway Establishment Code, 1990. After examining in details these Rules, it is necessary to direct the respondents that if in order to derive the benefit of past officiation in the pay fixation, the applicant satisfies the three conditions laid down in Fourth Proviso of FR-22-C and if FR-22 as amended on 30th November, 1965, was the same at relevant time, then the applicant would be entitled to the relief which he seeks. If there is any amendment in FR-22, after 30th November, 1965, or in the relevant Rule in the Indian Railway Establishment Code, the respondents may consider the same. In case, respondents do not propose to give the benefit as stated above, they should give reasons for the same.

6. Hence the following order :

ORDER

The respondents are directed to examine the applicant's case in the following terms :

"If FR-22 amended on 30th November, 1965, is the same when the applicant was promoted as 'CA' in 1985 and if the three conditions laid down in the Fourth Proviso in FR-22-C, read with Rule-1313 and Rule-1316, of the Railway Establishment Code, 1990, are satisfied by the applicant in order to derive the benefit of the past officiation in pay fixation, the respondents should pass an order considering his pay fixation accordingly, in the grade of Rs.425-700, instead of Rs.515/- which is fixed and should pay all the arrears also. In case they hold that the applicant is not entitled to the benefit claimed by him under FR-22 and FR-22-C, the respondents should state reasons for the same. The respondents to give an opportunity to the applicant of being heard if he so desires and should dispose of his case within four months from the date of receipt of this Judgment. It would be open to the applicant to approach this Tribunal if he is aggrieved by the order of the respondents. The application is disposed of accordingly with no order as to costs."



(R.C. Bhatt)
Member(J)

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M.A. ~~xxx~~ 345/92 in O.A. 442/90

Date	Office Report	O R D E R
23-10-92		<p>Shri Shevde for the respondents who has filed M.A. 345/92 seeking additional time till 26-10-92. The advance copy has been served on the original applicant <i>None for the H.C. cont.</i> Accordingly the M.A. is disposed of. <i>by granting him till 26-10-92</i></p> <p><i>RL</i> (R.C.Bhatt) Member (J)</p> <p><i>ll</i> (N.V.Krishnan) Vice Chairman.</p> <p>*AS.</p>