

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/232/93 With M.A 636/1998

Date of Decision : 20/01/2000

Mr. Chiranjilal N. Gurjar : **Petitioner (s)**

Mr. Y. V. Shah : **Advocate for the petitioner(s)**

Versus

Union of India & Ors. : **Respondent(s)**

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

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The Hon'ble Mr. V. Ramakrishnan : VICE CHAIRMAN

The Hon'ble Mr. P. C. Kannan : MEMBER (J)

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?

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Chiranjilal N. Gurjar
Sr. Fuel Inspector
(re-designated as Loco Inspector),
Loco Shed, W.Rly.,
Mehsana (N. G.)

= Applicant =

(Advocate : Mr. Y. V. Shah)

Versus

1. Union of India
Through the General Manager,
W.Rly., Church gate,
Mumbai : 400 020.

2. Divisional Railway Manager (E),
W.Rly., Kothi Compound,
Rajkot.

= Respondents =

(Advocate : Mr. N. S. Shevde)

JUDGMENT
O.A 232 OF 1993
With
M.A 636 OF 1998

Date : 20/01/2000

Per Hon'ble Shri. P.C. Kannan : Member [J].

This is the second round of litigation. The applicant belonging to Group-'C' post under the respondents, being aggrieved with the action of the respondents in not granting stepping up of pay with that of his juniors, earlier filed O.A 173 of 1992 before this Tribunal. After hearing both sides, this O.A, was disposed of at the admission stage itself on 03.04.92 with a direction to the respondents to dispose of

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the representation in accordance with orders and instructions of the Railway Board and the relevant rules. The respondents accordingly considered the representation of the applicant and rejected the same vide the speaking order dated 23.06.92 (Annexure A-8). The applicant therefore preferred this O.A.

2. The case of the applicant is that he joined the respondents as Apprentice Foreman Grade 'A' on 19.12.56 and was promoted as Driver Grade 'C' on 24.02.62 and further promoted as Driver Grade 'B' on 28.11.73. The applicant submits that selection was held for the post of Power Controller / Loco Inspector in the scale of 335 - 525 and the applicant was declared successful and was placed on panel at Sr. No. 4 and was promoted as Power Controller in the scale of 550 - 750 vide order dated 01.08.75. Thereafter the applicant was further promoted as Jr. Fuel Inspector in February ' 80 and as Chief Loco Inspector in the scale of 840 - 1040 in August ' 85.

3. The applicant submits that his junior Shri. R. B. Sharma, Driver 'B' was promoted as Driver 'A' in the year 1986 and his pay was fixed at Rs.2,540/- from 01.01.87. On promotion as Loco Inspector in July 87, the pay of Shri. R.B. Sharma was fixed at Rs. 3200/- which was higher than the applicant.

4. The applicant being senior to Shri. R. B. Sharma of the Rajkot Division (same division) submits that he is entitled to stepping up with the R.B. Sharma and his pay is to be revised as follows :-



Rs. 3200/- on 21-07-1986; Rs.3300/- on 21-07-1987; Rs.3400/- on 21-07-1988; Rs.3500/- on 21-07-1989 (blocked); Rs.3600/- on 21-07-1991 (Stagnation increment); and Rs.3700/- on 21-07-1992

5. The applicant further submits that in the earlier O.A No. 173 of 1992, he referred the case of one of his junior Shri. B. R. Malhotra, Senior Fuel Inspector and whose pay was also fixed on 3200/- on 15.06.1986. The respondents however, rejected his claim on the ground that Shri. Malhotra belonged to Bombay Division while the applicant belongs to Rajkot Division and in the circumstances, his claim for stepping up of pay with reference to that of Shri. Malhotra is not in accordance with the rules. The applicant submits that the rejection of his claim was arbitrary, irrational and without application of mind. The applicant further submits that in comparison to the case of Shri. R. B. Sharma who belonged to the same division, he fulfills all the conditions prescribed by the railway board for granting benefit of stepping up and therefore he is entitled to stepping up of pay equal to the pay as fixed for his junior Shri. R. B. Sharma in the higher post from 01.01.1986.

6. The respondents in their reply submitted that Shri. R. B. Sharma was promoted as Driver 'A' w.e.f. 01.06.81 and not from 1986 as alleged by the applicant. He however, could not succeed in the selection for the post of Loco Inspector prior to 1980. It was further submitted that Shri. R. B. Sharma was further promoted as Driver (O) w.e.f. 01.06.81 and as Driver Mail / Express in the scale of 1640-2900 by order dated 16.09.1988 but continued as Loco Inspector in the interest of the administration vide order dated 22.11.88. The pay of Shri. Sharma was fixed at

Rs.3200/- from 21.07.1986 by adding 30 % Mileage / KMA in the pay of Rs.2480/-. So far as seniority of Shri. Sharma is concerned, it is stated that Shri. R. B. Sharma was senior to the applicant in the category of Driver 'B'. However, Shri. Sharma became junior to the applicant in the Supervisory cadre and therefore Shri. Sharma was promoted on the basis of seniority from Driver 'B' to Driver 'A' etc.,. It was further stated that the pay of Shri. Sharma was correctly fixed as Driver Mail / Express in the scale of Rs.1640-2900 and as Loco Inspector in the scale of Rs. 2000-3200 as per the rules. ~~As~~ ^{and} Mr. Sharma was senior to the applicant in the running staff category, ^{his} pay was fixed by adding 30% Mileage Allowance whereas the applicant could not be given stepping up as he was posted in the Loco Supervisory category from Driver 'B'. It was also stated that Shri. Sharma was promoted in the Loco Supervisory category from Driver 'A' (Mail / Express) and the pay of the applicant was also fixed by adding 30 % KMA at the time of his promotion from Driver B to Power Controller / Loco Inspector. In the facts and circumstances, the respondents submitted that the applicant had not fulfilled the mandatory conditions prescribed for the grant of stepping up of pay with that of Mr. Sharma.

7. We have carefully examined the pleadings. The applicant earlier filed O.A no. 173 of 92 and claimed stepping up of pay with that of his junior Shri. Malhotra of Bombay Division. This claim was rejected by the respondents. The respondents have furnished the following reasons for rejecting the claim :-

Shri. Chiranjilal N. Gurjar has claimed stepping up of his pay in respect of Shri. B. R. Malhotra of Bombay division. As per Rly. Board's order communicated vide their letter No. E (P & A)-II-88 / RS-12 dtd. 16.09.88, circulated vide H.Qs letter No. PS No. 251/88 dt. 17.10.88 and Rly. Board's order No. E (P & A) II/88/RS-12 dt. 14.09.90 circulated vide HQs

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No. P.S. No. 182/90 dt. 01.10.90, pay of senior Mechanical Supervisor coming from running cadre prior to 01.01.86 can be stepped up equivalent to the pay of junior Supervisors also coming from the running cadre of same seniority unit i.e., Division after 01.01.86 subject to fulfillment of other conditions mentioned in that letter and other local provisions stepping up of the pay.

The guidelines for stepping up of pay are clearly defined in para 1316 (FR 22 c) of Indian Railway Establishment Code Vol. II (1990 edition) and President's decision thereon. Sub-para 3(v) of the above decision is pertinent here. In this para it is clarified that both senior and junior railway employees belong to same cadre, with illustration exactly similar case has been quoted para in question is reproduced below for ready reference.

"According to the provisions of stepping up orders, both junior and senior railway servants should belong to the same cadre. To illustrate, in a case where a senior employee of one seniority (promotion) group maintained locally is promoted earlier to a higher post on the basis of list of seniority which is maintained on all railway basis, he can get his pay stepped up only with reference to the pay of a junior, belonging to the same seniority group in the lower post which was maintained locally."

In case of drivers from which both the employees i.e., Shri. Chiranjilal N. Gurjar and Shri. Malhotra came to the Loco Supervisory cadre, the seniority group is division-wise, while Shri. Chiranjilal N. Gurjar belongs to Rajkot Division. Shri. Malhotra belongs to Bombay division before their promotion as Loco Supervisors. Therefore, Shri. Chiranjilal N. Gurjar has no claim for stepping up of pay with respect to Shri. Malhotra.

8. In the present O.A, the applicant has relied upon the case of Shri. R.B. Sharma. The facts show that while the applicant was promoted to the Supervisory cadre in '75, from the grade of driver 'B', his senior Shri. R.B. Sharma Driver 'B' was promoted as Driver 'A' in June 81 and subsequently as Driver Mail / Express in the scale of 1640-2900 in 1988. Shri. Sharma was further promoted as Loco Inspector in the scale of 2000-3200 w.e.f. 21.07.86. As Mr. Sharma belong to the running staff, while fixing the pay, 30 % of mileage allowance has been added in the pay of Rs.2480/- and Shri. Sharma's pay was fixed at Rs.3200 from 21.07.86.

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9. The relevant provisions regarding stepping up refers to the following decision under sub para. 3 [v] which reads as follows :-

" According to the provision of stepping up Orders, both the junior and senior railway servants should belong to the same cadre, to illustrate, in a case where a senior employee of one seniority (Promotion) group maintained locally is promoted earlier to a higher post on the basis of list of seniority's which is maintained on all railway basis, he can get his pay stepped up only with reference to the pay of a junior belonging to the same seniority group in the lower post which was maintained locally."

So far as the claim for stepping up in terms of the revised pay rules, the respondents rejected the claim of the applicant for the following reasons :-

" As per extant rules in cases where a senior railway servant promoted to a higher post before the 1st day of January 1986 draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January 1986, the pay of the senior rly. servant should be stepped up to an amount equal to the pay as fixed for his junior in that higher post, the stepping up of the junior railway servant subject to fulfillment of the following conditions.

- (a) Both the junior and the senior Rly. servants should belong to the same cadre and the post in which they have been promoted should be identical in the same cadre.*
- (b) The pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical, with this position it is made clear to you that you are not eligible for stepping up of pay.*

Moreover as regard Shri. R.B. Sharma, it is stated that , he is Senior to you because he has passed the selection of Driver 'B' scale Rs.210-380 (A) and placed on panel which was notified under this office letter No. E 1025/5/5/Vol. III dtd. 28.09.73 and you were not placed on the said panel. Before this, Shri. R. B. Sharma was promoted to officiate as Driver 'B' in scale Rs.210-380 (A) under this memo No.EM 839/5/5/10 dtd. 24.05.71 whereas you were promoted as Driver 'B' in scale Rs. 210-380 (A) under this Office memo No. EM 839/5/5/10 dtd. 28.03.73 i.e.after Shri. R. B. Sharma."

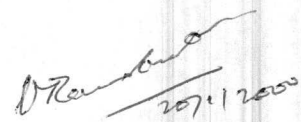
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10. Shri. Sharma was senior to the applicant while holding the post of Driver 'B'. In the circumstances, it cannot be stated that the applicant was senior to Mr. Sharma. It is only at the stage of promotion to the Supervisory grade, the applicant become senior as he superseded Shri. Sharma. However, Shri. Sharma continued in his own cadre and was promoted as Driver (O) and subsequently as Driver, Mail / Express. In the facts and circumstances, we hold that the applicant cannot compare his case with that of Shri. R. B. Sharma who was senior to him in the running staff category. The applicant has also not fulfilled the mandatory condition that both the applicant and R. B. Sharma should belong to the same cadre and the post for the purpose of claiming stepping up in terms of the revised pay rules.

11. The O.A therefore, fails and is dismissed with no orders as to costs. With the final disposal of the O.A, M.A 636 of 98 also stands disposed of.



(P. C. Kannan)
Member (J)


20/11/2000
(V. Ramakrishnan)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCH

OA/TA/RA/CP/MA/ET 232 of 199 3Mr. C.N. Garg

APPLICANT (s)

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RESPONDENT (s)

I N D E X S H E E T

SR.NO.	DESCRIPTION OF DOCUMENTS	PAGE
1.	OAT	1 to 31
2.	Reply	32 to 41
3.	MA/436/98	42 to 44
4.	Placed in - Records	45 to 52
5.	Trdy. dtd. 20-01-2000 -	(8 pages)

Certified that the file is complete in all respects.

Signature of S.O.(J)

Signature of Deal. Hand.

15-02-2000