

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 562 OF 1993

~~T.A. NO.~~

DATE OF DECISION 23-8-1996.

Shri Manilal Pandya, Petitioner

Mr. G.R. Malhotra, Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent s

Mr. A.S. Kothari, Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

The Hon'ble Mr. T.N. Bhat, Judicial Member.

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 ?
- 20

IN THE OFFICE OF THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

J U D G M E N T

O.A.No. 562 OF 1993

Date: 23-8-1996.

Shri Manilal Pandya
Retired as Chief Booking Clerk,
Sabarmati under Divisional
Manager(C) Baroda.

Resident of;
150, Dharmanagar Society,
2nd Division,
Opp: Milan Mandir,
Sabarmati, Ahmedabad.

.... Applicant.

Versus.

1. Union of India through
the General Manager,
Western Railway,
Churchgate, Bombay.
2. Sr.Divisional Commercial
Manager(E)
Divisional Manager's office
Pratapnagar, Western Rly.
Baroda.

.... Respondents

Mr. G.R. Malhotra, learned counsel for the applicant.

Mr. A.S.Kothari, learned counsel for the respondents.

CORAM: (1) Hon'ble Mr.V.Radhakrishnan, Admn.Member.

(2) Hon'ble Mr. T.N. Bhat, Judicial Member.

Per: Hon'ble Mr. T.N. Bhat, Judicial Member.

1. Heard Mr. Malhotra and Mr. A.S. Kothari,
the learned advocates for the applicant and the
respondents, respectively.

by Mr. 23.8.96

2. The applicant joined the western Railway as Assistant Commercial Clerk in the year 1954 and he was promoted as Head Booking Clerk with effect from 1.1.1984. Thereafter orders were issued for his promotion as Chief Booking Clerk on 4.9.1986 (Annexure A-1). However, the applicant was not relieved to join the post of Chief Booking Clerk at Dabholi due to administrative reasons. It is the case of the applicant that his junior Shri Shukla, who joined the post of Chief Booking Clerk on 1.1.1987 started drawing higher pay due to his earlier joining at the post. In the panel prepared for the promotion to the post of Chief Booking Supervisor the applicant is shown as senior to Shri Shukla (Annexure A-8). The applicant was also promoted in the scale 2000-3200. The applicant made a representation to step up his pay to Rs. 2375/- which was the pay drawn by Shri Shukla, while applicant was fixed at Rs. 3200/-. The applicant made representation to Senior D.P.O. dated 26.6.92 for consideration of his case for stepping up of his pay as his retirement benefits at the time of retirement could be effected. vide letter dated 30.10.92, Annexure A-12, the respondents rejected the contention of the applicant on the ground that in view of the letter of the Railway Board No.E(NG)I-73/PEL/130 dated 14.2.75 the benefit of

[Handwritten signature]

stepping up of pay with reference to juniors is not permissible in case senior employees whose promotion could not be carried out immediately due to delay in relieving him on administrative grounds.

3. The respondents have contested the O.A. by filing the reply in which they have relied on the aforesaid instructions of the Railway Board (R-1). It is further contended that this fact was conveyed to the applicant vide letter dated 18.12.90 in which a specific mention was made of the aforesaid instructions of the Railway Board. A reference has also been made to another Railway Board letter dated 7.8.90 in which it was provided that past cases decided prior to issue of Board's letter dated 11.6.90 should not be reopened.

4. The applicant has also filed rejoinder to the reply statement of the respondents in which he has stated that the railway Board letter of 1975 *ibid* (R-1) has no legal force as it is discriminatory and violative of Rules of natural justice, equity as well as Articles 14 & 16 of the Constitution of India.

5. During the course of arguments, the learned counsel for the applicant, relying upon some other instructions, stated that in the case of persons who had not at all been promoted initially as also in case of those persons who had been promoted but


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not on the date from which they should have been promoted, proforma fixation of pay at par with the pay drawn by the juniors is permissible. However, as regards R-1 the counsel has stated that the aforesaid letter violates Articles 14 & 16 of the Constitution of India and ^{is} ~~are~~ not, therefore, valid. It was pointed out to the learned counsel for the applicant that he could have challenged the vires of the aforesaid Railway Board letter and that merely taking a plea in the rejoinder that the aforesaid instructions had no legal force would not be sufficient. The learned counsel, in reply, cited two judgments to support his contention that his client is entitled to stepping up of his pay at par with the pay drawn by the junior. The judgments cited are; 1983(1) SLR 242 and ATR 1987(1)CAT 114. We have gone through the copies of these judgments furnished by the learned counsel. Both these judgments are distinguishable on facts. In those cases the aforesaid Railway Board instructions were not at all at issue and it was held that when a junior is promoted and the senior is ignored, the senior would be entitled to promotion from the date his junior was promoted. In the instant case it is not the case of the applicant that he was not promoted along with the junior. As already mentioned, the applicant could not be relieved for administrative

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reasons. The Railway Board instructions specifically provide that in such a case stepping up of pay at par with the pay of the junior can not be allowed. The applicant ought, therefore, to have specifically challenged the validity and vires of the aforesaid Railway Board instructions (R-1) which have statutory force. The action of the respondents in refusing stepping up of the applicant's pay is justified under the aforesaid Railway Board instructions and there are no grounds to interfere with the decision taken by the respondents.

6. For the foregoing reasons, the O.A. is dismissed as being devoid of force. No costs.


23.8.1996
(T.N. Bhat)
Member (J)


(V. Radhakrishnan)
Member (A)

vtc.

Copy of Board's letter No E(NG) 63PML/92 dt. 15.9.64
to GMs, Indian Railways & others.

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Sub: Hardships to non-gazetted staff due to
administrative errors - Loss in seniority
and pay.

It has been represented to the Board that
some times due to administrative errors staff overlooked for
promotion to higher grades. This could either be on account of
wrong assignment of relative seniority of the eligible staff or
full facts not being placed before the competent authority at
the time of ordering promotions or some other reasons. Broadly,
loss of seniority due to administrative errors can be of two
types.

- (a) where a person has not been promoted at all
because of administrative error; and
- (b) where a person has been promoted but not on the
date from which he should have been promoted but
for the administrative error.

2. The matter has been considered and the Board desire
that each such case should be dealt with on its merits. The
staff who have lost promotion on account of administrative
errors should on promotion be assigned correct seniority vis-à-
vis their juniors already promoted, irrespective of the date
of promotion. Pay in the higher grade on promotion may be
fixed proforma at the stage which the employee would have
reached if he was promoted at the proper time. The enhanced
pay may be allowed from the date of actual promotion. No
arrears on this account shall be payable, as he did not
actually shoulder the duties and responsibilities of the
higher grade posts.

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Copy of letter No. EP839/14 dt. 21st March 74 to The Secretary (P), Rly. Board, New Delhi circulated under GM (P) CCG's letter No. EP839/14 dt. 3-4-1975 to all concerned.

Sub:- Promotions, reversions and Transfers of
Non-gazetted staff - Administrative errors.
Ref:- Board's letter No. E(NG) I-63PM1/92 dt. 15/17.9.64
dt. 20.10.65 & No. E(NG) 67PM1/8 dt. 23.6.67.

.....

In accordance with the Board's letter of 17.9.64 quoted above, there can be two types of Administrative errors involving loss of seniority and pay:-

- i) A person has been promoted at all because of administrative error.
- ii) A person has been promoted but not from the date on which he would have been promoted, due to administrative error.

2. The Board desired that each of such cases should be dealt with on its merits. The staff who have lost promotion on account of administrative errors, should, on promotion be assigned correct seniority vis-a-vis their juniors already promoted irrespective of the date of promotion. Pay in the higher grade on promotion may be fixed proforma at proper time and enhanced pay allowed from the actual date of promotion. No arrears on this account shall be payable.

3. In terms of Board's letter No. E(NG) I-71PM1/52 of 2.4.71 in reply to this Railway's letter No. E773/0 dt. 3.2.71, when the case of Shri R. T. Kriplani, Traffic Signaller promoted as Relieving ASM but not relieved to carry out transfer on promotion due to administrative reasons was referred to the Board, instructions have been issued in this Railway's circular No. EP839/14 dt. 29.8.72 (copy enclosed) that delay by the administration in sparing staff on promotion cannot be considered as an administrative error for giving proforma fixation. On receipt of General Secretary, NFIR's letter dt. 6.3.73, the Board called for remarks of this administration vide No. E(NG) I-73 PM1/131 of 25.11.73 which has been replied in this Rly's letter of even No. dt. 17.12.73.

4. As regards the question of Proforma fixation of pay, the point for consideration and decision is as to what should constitute and be construed as an administrative error. In this context, two types of administrative errors, one of non-promotion and the other of belated promotion have been indicated in Board's original directive of 17.9.64. If an employee who was not promoted at all because of an administrative error, or an employee was promoted not from the due date but from a later date, also on account of administrative error, could be given the benefit of proforma fixation, it stands to reason employees who is promoted on the due date but was not relieved or promotion on the due date due to administrative reasons should also get the same benefit. Error in the normal course cannot be transgression, blunder or fault. Failure on the part of the administration to relieve an employee who is correctly promoted on the due date, on the grounds of administrative necessity, can be correctly characterised as a transgression or a fault which, by itself, is an error. It is therefore considered that all such cases should normally fall within the definition of administrative error as referred to in Board's letter of 17.9.64. It is quite likely that while issuing the orders of 17.9.64 Railway Board may not have been aware of a large number of cases on the railways where eligible staff, though promoted on due date, are not relieved in time on promotion due to administrative reasons, and as such, this particular type of contingency was not included in the Board's directive.

5. In this context, in reply to Board's letter of 25.11.73, Board have been advised of the circumstances in which the administrative instructions of 29.8.72 have been issued. While apprising the Board of these circumstances, the Board were, however, not been advised that there are a number of cases in which the benefit of proforma promotion and fixation of pay have been denied on the ground that failure to relieve them in time on promotion, has not been considered as administrative error. Hence Board are requested to confirm that even in cases where the staff are not relieved in time on promotion due to administrative reasons the benefit of proforma fixation should be given from the date their juniors have been promoted.

...

This Court allowed this writ petition vide judgment dated April 24, 1972, holding that the Haryana Government after November 1, 1966, was not competent to hold the enquiry and that since the Punjab Government had neither held any enquiry initially nor any competent authority of the Punjab Government had conducted any enquiry even before ordering recovery, so the order sanctioning the recovery from the petitioner was illegal and void *ab initio*.

2. The present petitioner from whom also, as already observed, recovery of Rs. 5,578 had been ordered by the Punjab Government, has challenged that order and has claimed that his case is squarely covered by the judgment of this Court rendered earlier in C. W. P. No. 3389 of 1968. In my opinion, the case of the present petitioner is squarely covered by the said decision. The only distinction pointed out by the respondent between the case of the present petitioner and Mr. Amrit Rai Sood was that in the present case the petitioner was permitted to file an appeal before the Chief Engineer who had also permitted him a personal hearing before the Executive Engineer. This distinction is meaningless. The Punjab Government authorities did not hold any inquiry whatsoever. There can be no question of any appeal to the Chief Engineer, Punjab from the order passed by the Haryana Government or any officer of the Haryana Government.

3. For the reasons aforementioned, this petition is allowed but with no order as to costs and the impugned orders (Annexures P. 1 and P. 4) are quashed.

Petition allowed.

PUNJAB AND HARYANA HIGH COURT

Before :—I. S. Tiwana, J.

C. W. P. No. 1768 of 1973

Decided on 9-9-1982

Dalip Singh, Reader to Additional District and Sessions Judge,
Faridkot (Petitioner)

Vs.

The Punjab and Haryana High Court and Anr. (Respondents)

For the Petitioner :—Mr. J. L. Gupta, Advocate.

For the Respondents :—Mr. R. S. Mongia, Advocate, for respondent
No. 1.

Mr. D. R. Puri, Advocate, for respondent
No. 2.

Constitution of India, Article 226—Promotion—Back wages—Promotion from back date—Government servant entitled to emoluments to the post w. e. f. the date promotion was due to him though he did not actually work on that post.

(Para 1)

Case referred :

K. K. Jaggia Vs. State of Haryana, 1972 S. L. R. 578.

JUDGMENT

(Oral)

I. S. Tiwana, J.—The admitted facts are that respondent Sham Lal was promoted to the post of Clerk of Court to the Senior Sub Judge, Bhatinda, on November 22, 1966, treating him to be senior to the petitioner. This order was successfully assailed by the petitioner in this

Court (on the executive senior to Sham Lal respondent) promotion in question District Judge, Bhatinda District Judge, Bhatinda Clerk of Court to the Senior Sub Judge, Bhatinda. The petitioner impugns this order for promotion dated (22-11-1966) his junior found eligible and entitled to be awarded all the benefits (Annexure P. 6) on these very lines. The respondent Senior Sub Judge earlier to the filing of the order dated August 18, 1966, the petitioner had not been paid any arrears of salary. The order was dismissed by the respondent Senior Sub Judge and was sent to him on July 1966.

After hearing learned counsel for both parties, an exception can be taken to the order that since he had not been promoted, he was not entitled to be considered for promotion with effect from November 22, 1966, that promotion with effect from his emoluments etc. of the respondent Senior Sub Judge in K. K. Jaggia v. State of Haryana, it has been observed that the respondent Senior Sub Judge and was later found entitled to be considered for contending that the duration on the ground.

2. In the light of the Annexure P. 7 and P. 10, consider the case of the respondent Senior Sub Judge on November 22, 1966 and in motion on that day he was not due to him. No cost.

PUNJAB AND HARYANA HIGH COURT

Before :—

Miss Rashmi

State of Punjab and

For the Petitioner :

For the Respondents :

Constitution of India

...Petitioner has

Chandigarh, re

appointed as

ment dated April 24,
er November 1, 1966,
hat since the Punjab
lly nor any competent
ted any enquiry even
g the recovery from the

ready observed, recovery
ernment, has challenged
y covered by the judg-
P. No. 3389 of 1968..
mer is squarely covered
out by the respondent
fr. Anrit Rai Sood was
mitted to file an appeal
him a personal hearing
is meaningless. The
inquiry whatsoever.
Chief Engineer, Punjab
ent or any officer of

a is allowed but with
Annexures P. 1 and P. 4)

Petition allowed.

COURT

ct and Sessions Judge,
(Petitioner)

nr. (Respondents)

ocate.
Advocate, for respondent

ocate, for respondent

tion—Back wages—Pro-
nt servant entitled to
ate promotion was due
ork on that post.

(Para 1)

L. R. 578.

hat respondent Sham Lal
the Senior Sub Judge,
o be senior to the peti-
the petitioner in this

Court (on the executive side) and it was held that the petitioner was senior to Sham Lal respondent and on that account his claim to the promotion in question was directed to be considered afresh by the District Judge, Bhatinda. As a result of this order of this Court, the District Judge, Bhatinda, promoted the petitioner to the said post, i. e. Clerk of Court to the Senior Sub Judge, w. e. f. July 19, 1969. The petitioner impugns this order on the plea that as a matter of fact, his case for promotion should have been considered with effect from the date (22-11-1966) his junior Sham Lal was promoted and in case he is found eligible and entitled to have promotion with effect from that date he be awarded all the arrears of pay etc. A representation (Annexure P. 6) on these very lines had been made by the petitioner to the District Judge earlier to the filing of this petition but the same was dismissed vide order dated August 18, 1970 (Annexure P. 7) on the ground that since the petitioner had not worked against the post of Clerk of Court, he could not be paid any arrears. Later the appeal of the petitioner against this order was dismissed by this Court *in limine* and intimation to that effect was sent to him on July 17, 1971.

After hearing learned counsel for the parties, I find that no exception can be taken to the claim made by the petitioner. It is patent that since he had been held senior to Sham Lal respondent he was entitled to be considered for the promotion given to the latter with effect from November 22, 1966. In case he is found fit or entitled to that promotion with effect from that date, he has obviously to be paid his emoluments etc. of that post in the light of the judgment of this Court in *K. K. Jaggi v. State of Haryana*, 1972 S. L. R. 578, wherein it has been observed that an employee who was illegally not promoted and was later found entitled to that promotion then there is no room for contending that the pay of the higher post be not paid to him for that duration on the ground that he had not worked against that post.

2. In the light of the above, I allow this petition and quash orders Annexure P. 7 and P. 10 and direct the District Judge, Bhatinda, to consider the case of the petitioner for promotion with effect from November 22, 1966 and in case he is found fit or entitled to have promotion on that day he would be paid his arrears etc. whichever may be due to him. No costs.

Petition allowed.

PUNJAB AND HARYANA HIGH COURT

Before:—I. S. Tiwana, J.
C. W. P. No. 2849 of 1981
Decided on 29-7-1982

Miss Rashmi

Vs.

(Petitioner)

State of Punjab and others

(Respondents)

For the Petitioner :—Mr. V. P. Sarda, Advocate.

For the Respondents :—Mr. R. S. Amol, Advocate.

Constitution of India, Articles 14 and 16—Termination/Qualification
Petitioner holding diploma from Pracheen Kala Kendra,
Chandigarh, recognised by the Panjab University—Petitioner
appointed as Lecturer on the basis of the diploma on 24-8-1974

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. OA/562/93

Transfer Application No. _____

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided)

Dated : 3/9/96

Countersign :

P 3996

Section Officer.

KaBlaell 3/9
Signature of the Dealing
Assistant

I N D E X - S H E E T

0 A1362193

M. M. Pandya

U. of - Indict San.

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted :

C.A.T./Judicial Section.

Original Petition No 562
of 1993

Miscellaneous Petition No _____
of _____

Shri M M Parbha Petitioner(s)
versus
UOI 2008 Respondent (s)

This application has been submitted to the Tribunal by
Shri GR Mahotra

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/draft letter is placed below for signature.

ASST.

S.O.(J)

D.R.(J)

1. Dates of Annexure A/11/incorrect in index.
2. Copy of impugned orders dt 27-11-90 not filed.
3. I.P. not stamped and dated.

24/9/93

24-9-93

Letter issued on 24/9/93

24/9

Submitted

Kindly see above codes. Office objections have been complied with today. The matter, if approved, will be handed over to the concerned for necessary action.

27/9

S.O.(J)

27/9/93

27-9-93

O.Ast 531/93

Court-II

Filed by Mr. G. R. Mahdria
Learned Advocate for Petitioner
with second set & 2 copies
copies copy served/not served to
other side

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A.NO. 562 of 1993.

M.M.Pandya

..

..

Applicant.

V/S.

Union of India through General
Manager, W.Rly. Church gate, Bombay
and other

..

..

Respondent.

I N D E X

Sr.No.	Annexure	Particulars	Page No.
1.		Memo of application	1 to 11
2.	A1	Memo No.157 showing promotion and posting order in Scale of Rs.550-750(R).	12
3.	A2	Applicant's representation dt. 30.9.86.	13
4.	A3	Appeal dated 12.1.1987.	14
5.	A4	Memo No.3 -Promotion & posting order of Mr.V.I.Mehta,CBC in scale 550-750.	15
6.	A5	Memo No.26-Revised posting order.	16
7.	A6	Representation-reminder dt.21.3.88	17
8.	A7	DCS(C)BRC letter No.EC/M/113 dt. 8.7.88 refusing to step up pay.	18
9.	A8	Letter No.EC/1025/5/4/13/1 declaring panel of employee in order of seniority scale 2000-3200 (RP).	19
10.	A9	Memo No.98 posting order of CBS/CLS.	20
11.	A10	Representation of applicants along with DO No.EC/M/113 addressed to SPO(T) CCG.	21-22
12.	A11	Applicants appeal dt.26.6.92 for stepping up his pay.	23
13.	A12	EC/M/113/L dt.30.10.92 alongwith HQ.reply. with APO (CG UN d-27)-1196	24-25
14.	A13	Division office BRC letter No. EP/773 Vol.II for admission of stepping up.	26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

M.M.Pandya .. Applicant.
Versus.

Union of India, through
General Manager, W.Rly.
Church Gate, Bombay and
others .. Respondent.

O. A.No. of 1993.

I. Particulars of the Applicant:

- i) Name of the applicant : MAHASHANKER M.PANDYA
- ii) Name of father : Late shri Manilal Pandya
- iii) Designation & office : Retired as Chief Booking
in which employed. clerk, Sabarmati under
Divisional Manager (C)
Baroda.
- iv) Office address : Retired on 28.2.1991.
- v. Address for service : 150, Dharmanagar society,
of notice 2nd Division, Opp. Milan
Mandir, Sabarmati,
Ahmedabad 380 005.

2. Particulars of the Respondents:-

- 1. Union of India through
the General Manager,
Western Railway, Churchgate
Bombay-20.
- 2. Sr. Divisional Commercial
Manager (E)
Divisional Manager's office
Pratapnagar, Western Rly.
Baroda.

3. Particulars of the order against which application is made:

- i. Order No. EC/M/113(L)/DO NO EC/839/4/16/2 Vol.II
 addressed to APO (1)BRC.
- ii. Date 30.10.92 (Sr.DCM(E) Brc)
 27.11.90 (APO(C) CCG.
- iii. Passed by Conveyed by Sr.DCM (E) BRC
- iv. Subject in brief:-

The applicant joined the Western Railway on 18.5.1954 as Asstt.Commercial clerk and was promoted from time to time and finally in the scale of Rs.2000-3200 (R)He made several representation to step his pay to that of Junior Mr.C.S.Shukla who was promoted in January 1987 but the applicant was relieved to join the post of promotion on 3.9.87 in the scale of Rs.550-750/1600-2660(RP) as both the applicant and his junior belong to the same cadre and seniority group.Hence this application against order of APO(C) Churchgate conveyed by Sr.DCM(E) Baroda refusing to step up his pay to that of Junior by way of proforma *fixation*

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicant further declares that application is within the limitation prescribed under sec.

6.

- A) The applicant joined the Western Railway on 18.5.1954 as Asstt.Commercial Clerk and due to his effecent working he was promoted to the post of/ Head booking clerk in the scale Rs.425-640 (R) from 1.1.84 at Sabarmati ~~in the~~
~~sxxkxRx425-BG~~ under Baroda Division. Thereafter the applicant was promoted as Chief Booking clerk in 4.9.86 ,the pay scale Rs.550-750 vide Memo No.157 dated 4.9.86 and copy of which is annexed hereto worked as Annexure A1.The applicant was not releaved to join the post of promotion at Daboi on administration account. Whereas his junior Mr.C.S.Shukla was promoted in January 1987.
- B) The applicant,in the mean time,^{vs} requested the Senior Divisional Commercial Superintendent(~~E~~) Baroda for his posting at Sabarmati (MG) against an existing vacancy and copy of this representation dated 30.9.87 is annexed hereto marked as Annexure A2.
- C) The applicant submitted an appeal dated 12.1.1987 requesting therein for posting at Sabarmati against an existing vacancy when he came to know that Mr.V.I.Mehta has been posted and transferred to

Sabarmati (MG) vide Memo No.3 dated 2.1.87 instead of posting the applicant at Sabarmati (MG) as posting of Mr.V.I.Mehta was issued on the file No.EC/M/113 of the applicant. The copies of the appeal dated 12.1.1987 and Memo No.3 dated 21.1.87 are annexed hereto marked as annexure A3 and A4 respectively.

Annex.

A3, A4

- D) That the applicant submits that he never refused to go to join the place of posting on promotion as he could not be released on account of the Administration thereby depriving him the benefit of the promotion and ~~increaments~~ thereof.
- E) The Sr.Divisional Commercial Superintendent vide Memo No.26 dt.18.2.87 published a list of 19 C B ~~CC~~/CL~~C~~ showing therein respective posting station and accordingly the applicant was posted as Sabarmati but he could not be relieved again on promotion within 7 days of the posting order as the Railway Administration could not manage to relieve him till 3.9.87 Copy of the second posting order vide Memo No.26 is annexed hereto marked Annexure A5. AnnexA5
- (F) The applicant submits that his posting order on promotion was delayed for one year on administrative account thereby defeating purpose of promotion as he was deprived of the promotional ~~movement~~ ^{benefit} at an early stage.

Anne.A6.

The applicant sent his representation dated 21.3.88 requesting therein stepping up his pay to that of Junior Mr.C.S.Shukla CLS who was promoted on January 1987 and accordingly his pay ought to have been stepped up by way of proforma fixation equivalent to that of his Junior, on 1.1.88 and copy of the representation is annexed hereto marked Annexure A6 But the DCS(E) Brc. vide his letter No.EC/M/113 dated 8.7.88 advised the applicant that stepping up pay was not admissible and the copy of which is annexed hereto marked as Annexure A7.

Annex.A7.

(G)

That the applicant submits that he was relieved on 3.9.87 and resumed as CBC at Sabarmati (MG) on 4.9.87 though he was promoted vide Memo No.157 dated 4.9.86 in the grade 550-750(R) along with his junior C.S. Shukla who was promoted in January 1987 earlier than the applicant. The applicant further submits that his junior Mr.C.S.Shukla was drawing higher pay ~~than~~ that of the applicant and to remove the anomaly of pay the applicant sent various representations to step his pay to that of his junior but of no avail.

H)

The Divisional Railway Manager vide its letter No.EC/1025/4/13/1 dt.10.8.1990 published a panel of employees for promotion to the

post of CBS/CLS(Chief booking supervisor/
chief Luggage supervisor) in scale of
Rs.2000-3200 (RP) in order of ^{seniority} ~~sanctioning~~
and accordingly Mr.M.M.Pandya the applicant
have been shown at Sr.No.9 whereas Mr.C.S.
Shukla at Sr.No.10 and copy of which is
annexed hereto marked as Annex.A/8.

Ann.A/8

- (i) The Sr.DCS(E) BRC vide Memo No.98 dated
3.12.1990 issued posting order for promotion
in the scale of Rs.2000-3200 and accordingly
the applicant was posted at AD and the copy
of which is annexed hereto marked Annex.A/9
The applicant vide his application dated
3.1.91 requested Sr.DCS(E) Baroda to step his
pay to that of his Junior Mr.C.S.Shukla who
was drawing Rs.2375/- higher than that of the
applicant and also ~~not was~~ requested to fix
his pay from January 1988 and copy of which
is annexed hereto and marked as Annex.A/10
collectively (with DO No.EC/M/113 of
11.10.1990).

Ann.A/10

- j) That the applicant submitted another
representation dated 26.9.92 for stepping
up his pay equal to that of his Junior Mr.
C.S.Shukla who was drawing Rs.2375 whereas
the applicant- receive pay Rs.2300/-thereby
resulting in the loss of retirement benefits
and copy of which is annexed hereto marked
as Annexure A-11.

A/11

The applicant also quoted that similar

cases (i.e. Mr.M.J.Rane was given benefit of proforma fixation to that of his Junior) have been decided by the Divisional Manager and as such the applicant was entitled to stepping up of this pay equal to that of his junior Mr. C.S.Shukla.

- k) The Sr.DCM(E) Baroda vide his letter No. EC/M/113(C) dated 30.10.92 conveyed the order of HQ office thereby refusing proforma fixation by stepping the applicants pay to that of his Junior and copy of which is annexed hereto as ~~xxx~~ annexed as annexure 12 collectively

Annex.12

The applicant further submits that the Railway Administrative decision of not stepping up pay in relation to his junior was not justified as being violative of article 14 and 16 of the Constitution of India as well as violative of Rules of Natural justice.

- (1) That the applicant* submits that he is entitled to stepping up pay with reference to Junior drawing more pay as per Railway Board's letter No.E/P&A/11/90/PP-2 dated 7.8.90 circulated under Divisional Rly.letter No. EP 773 Vol.II dt.31.12.90 and accordingly also he is entitled to stepping up of his pay equivalent to that of his Junior Mr.C.S.Shukla
CIs ADI and copy of the letter is annexed hereto as annexure A-13

Ann.A/13.

7. Details of the remedies exhausted;

The applicants declare that he has availed of all the remedies available to him under the relevant service rules.

8. Matters not pending with any other court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court of law or any other authority or any other Bench of Tribunal, and nor any such application, writ petition, or suit is pending before any of them.

9. Reliefs sought:

It is therefore, respectfully prayed that the Honourable Tribunal be pleased :

- a) to admit the application.
- b) to declare the decision/order passed by the HQ ~~xxxx~~ Office CCG conveyed by Sr.DCM(E) Baroda and its letter No. EC/M/113(L) dt.30.10.92 bad in law and without jurisdiction.
- c) To direct the respondents and its agents to ~~refuse~~ the pay of the applicant by stepping up his pay to that of Junior from January 1987 or the relevant date.

d) To direct the Respondents to pay consequential benefits i.e. retirement benefits and arrears with 12% interest etc. after stepping up his pay to that of Junior shri S.C. Shukla.

e) To pass any other order which the Honourable Tribunal may deem fit.

10. Interim Order :
NIL.

11. Particulars of Postal order.

- i) Number of postal order: 247309
- ii) Name of the issuing post office. *Salmon, Ahmedabad*
- iii) Date of issue of postal order. *24/8/87*
- iv) Post office at which payable : Ahmedabad.

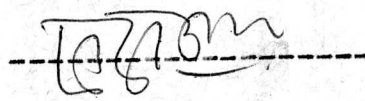
12. List of enclosures:

- 1) Copy of the Memo No.157 showing promotion and posting order in Scale Rs.550-750(R).
- 2) Copy of applicant representation dated 30.9.86.
- 3) Copy of appeal dated 12.1.1987.
- 4) Copy of Memo No.3 promotion and posting order of Mr.V.I.Menta CBC in scale of Rs.550-750.

- 5) Copy of Memo No.26 revised posting order.
- 6) Copy of Representation- reminder dated 21.3.88.
- 7) Copy of letter No.DCS (C) BRC letter No. EC/M/113 dt.8.7.88 refusing to step up pay.
- 8) Copy of letter No.EC/1025/5/4/13/1 declaring panel of employees in order of seniority scale 2000- 3200 (RP).
- 9) Copy of Memo No.98 posting order of CBS/CLS.
10. Copy of Representation of applicant along with DO No.EC/M/113 addressed to SPO(T)CCG.
11. Copy of Applicants appeal dated 26.6.92 for stepping up his pay.
12. Copy of letter No.EC/M/113/L dated 30.10.92 along with Head quarter reply.
13. Copy of letter from Divisional office BRC letter No.EP/773 Vol.II for admission of stepping up.

Ahmedabad.

Dt. 24.7.9



Applicant.

VERIFICATION

I the applicant hereinabove aged 60 years retired Chief Booking Supervisor ,Western Railway Sabarmati do hereby verify that the contents of the above paras are true to my personal knowledge, information and belief and that I believe the same to be true. No material fact has been suppressed by me. That the annextures ~~of~~ are the true copies of the original documents.

Ahmedabad.

Dt. 24-1-85



Applicant.

Identified by me



Annexure A1

Western Railway

No. EC/839/4/12

Divisional Office,
Vadodara,

Memorandum No: 157

Date: 4-9-86.

Sub:- Promotions, Reversions and Transfers of CBCs/CLCs, scale Rs. 550-750(R)
Tfc. Deptt. - BRC Divn.

The following postings are order to have immediate effect.

Sr. No.	Name	Present position.			Revised position.		
		Design.	Scale.	Stn.	Design.	Scale.	Stn.
1	D.N. Sawant	CBC	550-750	BRC	CBC	550-750	ADI
2	C.N. Pandya	CBC	450-700	"	"	"	BRC
3	M.M. Pandya	"	"	SBT	"	"	DB
4	C.S. Shukla	CLC	"	VG	"	"	VG
5	A.R. Khan	CBC	"	BRC	"	"	MYG
6	N.A. Mirza	CLC	"	DB	"	"	KSD
7	P.B. Athle	CBC	"	QRM's	"	"	PRTN
				office, BRC			
8	K.S. Shirwani (SC)	"	"	ADI	"	"	ADI
9	Ashabhai M (SC)	"	"	MHD	CLC	"	GDA

Joining time, TA/DA, duty, kit passes are admissible to Sr. No. 3, 5, 6, & 9 only. Sr. No. 1 is transferred at his own request.

The date when changes are effect may be advised to this office.

To: ✓
SS: BRC SBT VG BH ADI MHD DB MYG SB PRTN GDA ARS DCS ADI
C/- DCMI BRC DCTI BRC CC ET/4 CC/PB (Tfc.) Sr. DAO BRC
E/P: P/P: EC/839/4/12

for Sr. DCS (E) BRC

True copy

Cur

Sign

Annexure A2

13

FROM:- M.M. PANDYA

HBC. SABARMATI

DATE:- 30-9-86

To,
The SR. DCS (E)
BRC.

Sub:- Promotions, ~~Reversions~~ Reversions and Transfers of
CBCs/CLCs Scale 550/750 (R) Tfc Dept. BRC DVN.

Ref:- Your No. EC/839/4/12/of 4-9-86

MEMORANDUM NO. 157

Respected Sir,

With due respect, I beg to submit my humble request for
favour of kind consideration please.

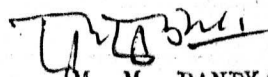
I am working at Sabarmati, I am ordered on promotion in
scale 550/750 (R) to Dabhoi vide above.

I have big family to maintain. My children are schooling here.
My wife is serving in Kasturba Samarak Samaj Kalyan Kendra and
as such my transfer to Dabhoi will disturb my family life and
will keep me all the while worried.

Shri Yaspal Malhotra CBC SBI retires on 30-9-86, Shri Bharti
who is in 550/750 (R) will work vice him and so there remains
vacancy in 550/750 (R). Also Shri N.N.Vyas who is in 550/750(R)
is under long sick and there is vacancy vice him. So, I, most
humbly request your kind honour to kindly retain and absorb me
at SBI in vacancy and oblige.

Thanking you in anticipation.

Yours faithfully,


(M. M. PANDYA)
HBC SABARMATI

Due M
Cm
Aam

A3

14

From :- M.M. PANDYA,
H.B.C.
SABARMATI

Date :- 12-1-1987

To,

The Sr. DCS (E)
BRC

Sub :- Promotions- Reversions and transfers of CBCS/CLCS scale 550/750
Tfc dept BRC DVN.

Ref :- Your No EC/839/4/12 of 4-9-86

Memorandum No 157

My appeal dated 30-9-86

Your office No EC/M/113 of 2/1/87 memo :- 3

Respected Sir,

With due respect, I beg to submit my humble appeal for favour of kind consideration please.

I am ordered on promotion to DE vide above in 550/750 (R) as CBC.

I have a big family to maintain. My children are schooling here.


My wife is serving in "Kasturba Smarak Samaj Kalyan Kendra" and as such my transfer to Dabhoi will disturb my family life and will keep me all the while worried. My wife will also remain worried.

I had appealed for my posting at SBI in vacancy of Shri NIN. Vgas. transferred to ADI. My appeal was considered vide EC/M/113 of 2/1/87 but subsequently the orders are changed and Shri V.I.Mehta was posted from BRC.

I most humbly request your kind honour.

to Kindly post me in ADI area at SBI-ADI in existing vacancy, vacancy to take place due to retirement or promotion in higher grade and oblige. Thanking you in anticipation.

Yours faithfully,


(M.M. Pandya)
BRC

Forwarded
for NIA

OK

Station Superintendent

SSCBI

12/1/87

Done by
Crown
Adhikari

.... cut here..

WESTERN RAILWAY. *A4*

15

No. EC/M/113.

Memo. No. *3*

Divisional Office,
Varanasi dt. -12-86.
2-1-87

Sub:- Promotion, Reversion and Transfer of
Class III -staff CBC scale Rs. 550-750(R).

...

✓ Shri V.I. Mehta, CBC scale Rs. 550-750(R) GRCP and transferred
to SBI in same pay and scale at his own request.

No joining time, TA/DA duty bit transfer is admissible to him.

The date of change should be advised to this office.

[Signature] 11/1/87
for Sr.DCS (B) IRC.

To:
SSs RCP, SBI, CMIs- RC ADI
ARS DCS ACS ADI
C/-CC ET 4, CC/PBTffc.) Sr. DAO RC.
C/-G.File, File N.EC/V/48, File N.EC/839/4/12.
C/-Divl.Secy. WREU/WRMS RC
C/- Divl.Secy. WRMS RC with ref. to his ~~last~~ letter No. WRMS/SBI/
622 dt. 27-10-86 and WRMS/SBI/672 dt. 16-12-86.

copy

28
37/1/87

line copy
crs
Adm

No. EG/839/4/12.

Memo. No. 26

WESTERN RAILWAY.

Divisional Office,
Baroda, dt. 13-2-87.

16

Sub:- Promotions, Reversions and Transfers of
Class III - Tfc. Deptt. RRC Divn. - CBC/
CLC Scale Rs. 550-750 (R)/1600-2660 (RS).

...

The following orders are issued to have immediate effect:

Sr. No.	Name S/Shri.	Present position.			Revised position.		
		Design:	Scale	Stn.	Design: Scale (R)	Stn.	
1.	C.S. Shukla	CBC	550-750 (R) 1600-2660 (RS)	VG	CBC	550-750 (R) 1600-2660 (RS)	ADI
2.	P.B. Athle	CBC	455-700 (R) 550-750 (R)	DRM's Office PRIN	CBC	"	BRCP
3.	U.K. Solanki	CLC	550-750 (R) 1600-2660 (RS)	BH	CBC	"	ADI
4.	K.G. Rathod	CBC	"	BRCP	CBC	"	ND
5.	N.A. Mirza	CLC	455-700 (R)	BH	CLC	"	BH
6.	M.M. Rathod	CBC	550-750 (R) 1600-2660 (RS)	KSB	CBC	"	IK
7.	M.M. Pandya	CBC	455-700 (R) 550-750 (R)	GDA	CBC	"	SBI
8.	M.J. Bhatt	CBC	455-700 (R) 1400-2300 (RS)	SBT IB	CBC	"	ADI
9.	K.V. Shah	CLC	"	ADI	CLC	"	ND
10.	Vasudoo K.	CBC	"	ND	CLC	"	BRCP
11.	R.K. Bhamdaraj	CLC	"	BRCP	CBC	"	BRCP
12.	R.P. Patel	CBC	"	ND	CBC	"	BRCP
13.	H.N. Bhavsar	"	"	IK	CBC	"	IB
14.	B.S. Trivedi	"	"	GDA	CBC	"	GDA
15.	C.S. Chaudhary	CLC	"	ADI	CBC	"	BRCP
16.	M.S. Hame	CBC	"	PDRA	CBC	"	BRCP
17.	J.D. Patel	CBC	"	ADI	CLC	"	GDA
18.	B.B. Vasava (ST)	"	"	MYG	CBC	"	MYG
19.	M.B. Vankar (SC)	"	"	BRCP	CBC	"	BRCP

Sr.No.1 is transferred due to post held on absence temporarily vide
ET/261/3/101 Pt.VI dt.3.10.86.

Sr.No.2 is transferred due to post transferred from PRIN to BRCP vide
No.ET/261/3/153-1 Dt.12.9.86.

Sr.No.3 to 7 are transferred on their own requests.

Joining time, TA/DA, Duty/Kit Passes and transfer/lacking allowance is
admissible to Sr.No.1, 11, 12, 13, 15, & 17 only.

The date of changes should be advised to this office ~~steno.~~ *within*

7 days.

for Sr.DCS(E) BRC.

TO :

SSs VG, ADI, PRIN, BRCP, BH, ND, KSB, GDA, IK,

SBT, SBI, IB, PDRA, MYG.

OMI, I, II & III ADI, VG, ND, ANND, BRCP, PRIN, IB, BH,
MYG, DOM I-BRC, DCTE BRC

C/- ARS- DCS-ADI

C/- CCET-4, CC/IB (Tfc), Sr.DAO BRC, C/- Guard file, P/file, File No. EG/839/4/11
EG/839/4/15 Pt.II

C/- Divl. Secy. WREU BRC.

C/- Divl. Secy. WMS BRC with r.f. to your letter No. WMS/SBI/52 dt.16.1.87,
WMS/GDA/10 dt.6.1.87, WMS/GDA/658 dt.18.11.86.

True copy
29/11/87
Amf.

From: M M Pandya,
CBC/SBI.

Dt. 21-3-88

To,

The Sr.DCS(E)BRC.

Sub: Fixation of pay in Scale Rs.550-750(R)
Stepping up of pay Rs.1600-2660(RP).

Ref: EC/773/4/1 of 15.12.87.

R/sir,

With due respect I beg to submit the following appeal for favour of kind consideration please:

I was transferred on promotion vide EC/839/4/12 of 4.8.86 to DB. My posting was given to SBI vide EC/839/4/12 of 18.2.87.

I was not relieved by SS SBT stating proper man not posted and not arrived vice me, though relief was available. I was relieved on posting of shri B.J.Patel ASM SBT decategorised at SBI.

I feel my fixation is wrong because I was not relieved on administrative account clearly shown in transfer memo by SS-SBT.

My junior was drawing more pay shri C.S. hukla CLC. Even if I may be stepped up in grades and pay from the date junior is promoted my fixation is wrong. As to my opinion on 1.1.88 I should be equal to shri C.S. Shukla CLC.

I shall be highly obliged if you will please look into and do the early needful to step me up in grades and pay from the date shri Shukla is promoted and advise.

Kindly do the needful early and oblige.

- Give copy
Cm

Yours Faithfully,

SD _____
M.M. Pandya

17

AG

No. EC/M/113.

(copy)

Dtd. 8.7.88

A7
18

From: DCS(E) BRC

To

SS-SBI.

Sub: Stepping up of pay according to pay of his Junior Shri C.S. Sukla CLC-care of Shri M M Pandya.

Ref: His application at 21.3.88.

With reference to above it is stated that Shri C.S. Sukla CLC-VG has resumed his duty in scale Rs. 1600-2660 (RP) from 24.1.87 on promotion whereas Shri M M Pandya resumed his duty on 4.9.87 in scale Rs. 1600-2660 (RP) on promotion.

Delay by the administration in sparing the staff on transfer on promotion can not be considered as one of the administrative error for the purpose of giving preferential promotion & fixation of in terms of G.M (E) CCS's letter No. FP.839/14 dt. 29.8.72.

Stepping up of pay is not admissible in such cases.

Please inform him accordingly.

True copy
cu

Sd/-
DCS(E) BRC.

Western Railway

Divisional Office,
BRC.

To, EC/1025/4/13/1

Dated: 10/8/1980.

To

SS ADI, B. KV BRC SBI
ARM/DCS ADI,

Sub : Selection Board for promotion to the post
of CBS/CLS scale Rs. 2000-3200 (3P).

The Selection Board conveyed on 20-3-80 to draw
up a Panel of employees suitable for Promotion to the
post of CBS/CLS in scale Rs. 2000-3200 (3P) have placed the
following employees on the Panel in order of Seniority.

No.	Name	Designation	Station
1.	Shri D.N. Sawant	Ad-hoc CBS	ADI
2.	" F.R. Mashhandi	CLC	BH
3.	" K.S. Mistry	Ad-hoc CLS	ADI
4.	" R.M. Mody	Ad-hoc CBS	ADI
5.	" V.I. Mehta	Ad-hoc CBS	ADI
6.	" B.D. Lad	CBS	AKV
7.	" E.E. Betty	CLS	ADI
8.	" C.M. Pandya	CBS	BRC
9.	" M.M. Pandya	CBS	BRC
10.	" C.S. Shukla	CLC	ADI

The above Panel is effective from 27-7-80 and
has approved by ADM.

The above Panel is however Provisional in terms
of Railway Board's letter No. 79 (S&T)/5/83 of 26-12-79
circulated vide D.O. Office letter No. EP/220/O/Vol. II dated
31-12-79.

The staff concerned may be advised of their result.

for ADM (E) BRC.

Copy to : CCs (E) CCG for information.
Divisional Secretary ARMS/AREU BRC.
P/File, Guard File.
CC E/Confidential, Sr. DPO BRC.

Noted
2-5/8/80
16

the copy
C.M.
BRC

WESTERN RAILWAY

No. EC/839/4/12/1

DRM's office, DRC.
Dated: 3.11.1990

Memorandum No: 98

Sub:- Promotion, reversion and transfer of class III staff - Tfc. Deptt:- RC division, - C.S./CLS scale B. 2000-3200(RP)

Ref:- This office letter No: EC.1025/4/13/1 dated 10.8.1990.

The following posting orders are issued to have immediate effect:-

S.NO.	Name S/shri	Present position			Revised position		
		Desig.	Scale	Stn	Desig.	Scale	Stn.
1.	M.L.Kokhi	CLS	2000-3200	ADI	CLS	2000-3200	ND
2.	M.L.Purani	CLS	"	GDA	CLS	"	ADI
3.	G.S.Dhavsar	"	"	ND	CLS	"	ANND
4.	E.E.Deatty	"	"	LRC	"	"	ADI
5.	M.M.Pandya	"	1600-2660	S.I	"	"	ADI
7.	C.S.Shukla	CLC	"	ADI	CLS	"	ADI

No joining time, TA/DA, duty/kits pass, transfer/packing allowance is admissible.

The above staff should be relieved within 15 days failing which the same should be treated as refusal to carry out their transfer and they will be debarred for promotion as per rules. Staff in occupation of Railway quarter should vacate the same before taking the staff on promotion, Sr.subordinates should verify that they are not undergoing any penalties against or any major DAR or B & C case is pending against them and this office should be advised at once.

The employees who desire to give their option for pay fixation from the date of increment can exercise their option within ~~the~~ one month from the date of promotion as per extant rules. The above promotions are provisional subject to the results of writ petitions pending before the supreme court.

The date of changes should be advised to this office at once.

[Signature]
for Sr.DCS(E) LRC.

To

SS ADI LRC GDA ND ANND S.I

ARM ADI

CMIs I, II, III ADI, LRC, GDA, ANND, ND DCM LRC

CC ET. 4, 5 P. file. G. file. EC.839/4/12 Pt. I

CC PL (TFC) Sr. DCM LRC EC.1025/4/13/1

C/- Divl. Secy. WREU LRC with ref to his letter No: ND/COMML/53/90 of 12.11.1990.

C/- Divl. Secy. WRMS with reference to his No: WRMS/COMML/ADI/1190 dated 20.11.1990

C/ commercial controller LRC for information & N/action please.

C/- DCS ADI w.r. to his DO NO: L.839/9 Vol. IV dated 19.11.1990.

[Signature]
Cm

To:

The Sy DCS (C)

M. M. PANDYA

Mo 21

BRE

CBS ADI

DT 3/1/81

Sub- Promotion - Pay Fixation -
Scale Rs 2000/3200 (A)

Ref- EC/838/4/12/1
Memo 88 DT- 3-12-80

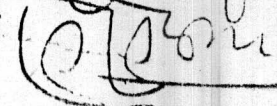
R/Sir,

I the undersigned beg to inform
your kind honour that- I resumed
and took over as CBS ADI from
14/12/80 in Scale 2000/3200 (A) vide
above.

I elect for Promotion Pay
fixation from January from the
date of increment which should
normally fall as my claim of
stepping up of Pay or Performance is
under consideration & reference to
DO EC/M/113 of 11/10/80. as per
Shri. C.S Shukla junior to me
drawing more pay.

Kindly do the needful &
oblige

Yours faithfully



CBS
ADI

Enc app



B.L. Chauhan,
APO (I)

Divisional Office,
Baroda,
Dated: 11-10-1990

D.O.No.EC/M/113

Dear Ma'am,

Sub: Proforma promotion and pay fixation due to delay in relieving staff on promotion - Case of Shri M.M.Pandya CBC Sabarmati.

Ref: Railway Board's letter No.E(NG)63PM1/92 dated 17-9-84.

In terms of Board's letter quoted above, there are two types of Administrative error.

- 1) Where a person has not been promoted at all because of Administrative error.
- 2) Where a person has been promoted but not on the date from which he should have been promoted but for the administrative error.

Shri M.M.Pandya CBC SBI scale Rs.1600-2660(RP) has represented for proforma promotion and pay fixation in scale Rs.1600-2660(RP) due to not relieved on transfer on promotion from Sabarmati (BG) to Sabarmati (MG) on this division, quoting a reference of GM(E)COG's letter No. EP/839/14 dated 21-3-74 addressed to Secretary (F) Rly. Board New Delhi, under which it was advised to the Board that, there are a number of cases in which the benefit of proforma promotion and fixation of pay have been denied on the ground that failure to relieve them in time on promotion, has not been considered as administrative error. *the following clarification can be sought from*

"Hence Board are requested to confirm that even in cases where the staff are not relieved in time on promotion due to administrative reasons the benefit of proforma fixation should be given from the date their juniors have been promoted".

In view of the above, please advise whether any confirmation or orders have been received from the Board regarding proforma pay fixation for not relieving the staff in time on promotion due to administrative reasons.

An early reply is requested.

Yours sincerely,

B.L. Chauhan
(B.L. Chauhan)

S. Nagnath,
SPO (T) COG.

Copy to:
SS SBI for information and to inform Shri M.M.Pandya CBC SBI accordingly.

Due by
Can

From:- M. M. Pandya

23

Retired CBS Adl A-11

To

The Sr D.P.O

BRC & PRTN.

150, Dharmraj Society

Sebaranchi.

Ahmedabad-5.

Dt:- 26-6-92.

Sub:- Stepping up of pay equal to junior.

Ref:- File No. Ec/17/113

Date Retired on 28/2/91.

R/Sir, with due respect I beg to Submit the following appeal for favour of kind Consideration please.

My case of Stepping up of Pay equal to junior. Shri. C.S. Shukla is not yet decided though I attended office personally on 2/4/91, 9/7/91, 18/7/91, 4/10, 15/11, 2/12, 11/3/92, 20/4/92, 27/4/92, 11/5/92, 15/5/92, 23/6/92. During this period I saw APO I, Sr DPO, Adm 2 DPM. Lastly I was directed to you on 18/5/92 by Adm 2 you were kind to listen my case & recorded the details in Diary & asked me to come after one month accordingly I attended office on 23/6/92 but you were busy with CPO CCG, I saw APO I but only reply is, file is not traceable so he is unable to decide the case though minimum Account of my case at 3 places & as such I requested him to verify from Seniority List, my file from Settlement, File of my junior & file of Shri. M. J. Rane whom pension is given. Also my junior Shri K.V. Rane though retired in 1600/2660 his pension is more, though I retired in 2000/3200 & my last pay was fixed to 2300/- I had submitted my option from 1/1/91 my normal increment 5%

2000/3200 grade. Kindly give justice & oblige. 20 weeks delay.

I will attend office from 23/7/92. I am faithfully yours

Therapy

Cu

Ar (ally) 24

प्र. रे. W. R.

जी 30 बी/जी एल 19
G 30 B/CL 19

संख्या No. ECFM/113CLD

दिनांक Dated 30-10-1992

प्रेषक From SR. DCM (E) BRE

सेवा में To Shri. M. M. Pandya
150, Dharam Singh Society, Sabarmati-Ahmedabad 5
विषय Sub: Proforma Promotion and pay-fixation -
संदर्भ Ref Case of Shri. M. M. Pandya Akl CBC- ~~SS~~ ADI
by your representation dtd 26-6-92

With reference to your letter quoted
above, the copy of this office letter No.
ECFM/113 dtd 18/12-90 addressed to
SS ADI is enclosed herewith for your
reference.

DA:- one

SR. DCM (E) BRE

No. EC/7/113.

Divisional Office,
Bareilly.
Date: 18-12-90.

To,
33-SBI. ADI

Sub : Proforma promotion and pay fixation - case of
Shri M.N. Pandya, CBC-SBI.
Ref : His representation dt. 3-5-90, H.Q. office letter
No. EC/839/4/14/2 Vol. II dt. 27-11-90.

With reference to the above a copy of H.Q. office letter quoted
above; in reference to his above representation is sent herewith for
information to the employee concerned accordingly.

[Signature]
For Sr. DES/1/ARC

Copy of APD/C/CCG's D.O. No. EC/839/4/14/2/Vol. II dt. 27-11-90 addressed
to APD/1/ARC

Sub : Proforma promotion and pay fixation - Case of
Shri M.N. Pandya - CBC-Sabarwati.
Ref : Your D.O. letter No. EC/7/113 dt. 11-10-90.

In this connection your attention is invited to this office
circular letter No. EP/839/14 dt. 3-4-75 under which a copy of this Railway's
letter No. EP/839/14 dt. 21-3-1974 addressed to the Secretary (Estt.), Railway
Board for Board's decision on the points raised in your D.O. letter quoted
above and Board's letter No. E(NG) 1-73/PFL/130 dtd. 14-2-1975 containing
their reply thereto were circulated to all Divisions.

In terms of Board's letter dated 14-2-1975 cited above, the
benefit of proforma fixation of pay viz-a-viz juniors, is not permissible
in case where the senior employee's promotion could not be carried out
immediately, due to delay in relieving him on administrative ground.

Sd/-
S. Uthaman
APD/C/CCG.

True copy
[Signature]
[Signature]

WESTERN RAILWAY

P.S.No. 155/90

No. EP/773 Vol. II

All subordinates BRC Divn.

Divisional Office,
Baroda.

Date : 31-12-90.

Sub : Stepping up of pay - N.G. Staff - Policy.
Ref : GM/E/CCG's letter No. E/P&A/773/0 Vol. VI dt. 29-8-90/
19-9-90 circulated under P.S.No. 155/90.

A copy of the above quoted letter is sent herewith for information, guidance and necessary action. The instructions contained in the letter be studied properly and action should be taken accordingly.

Hindi version of this letter is also enclosed.

[Signature]
For Sr. DPO-BRC

C/- All CSs, CCs, HCs, Inspectorial Staff,
CDM, CTNL, Junior, CLA, CIHR, CLWI,
All Officers of BRC Division, RSC-BRC,
APOs-I, II, III, G & Comp. for inf. and n/a. pl.
DRM/ADRM, Sr. DPO/DPO for inf. pl.
Divl. Secy. WRHS/WREU-BRC (20)

Copy of GM/E/CCG's letter No. E(P&A)773/0 Vol. VI dt. 29-8-90/19-9-90 x(P.S.No. 155/90) addressed to All concerned.

Sub : Stepping up of Pay - N.G. Staff - Policy.

A copy of Railway Board's letter No. E/P/A/II/90/PP-2 dt. 7-8-90 is sent herewith for information, guidance and necessary action. Board's letter of even No. dt. 11-6-90 referred to therein was circulated vide this office circular No. E/P/A/773/0 Vol. VI dt. 20-6-90 (P.S.No. 109/90).

Hindi version is enclosed.

Copy of Railway Board's letter No. E/P/A/II/90/PP-2 dt. 7-8-90 addressed to the General Managers, All Indian Railways and others.

Sub : Stepping up of pay of seniors with reference to juniors drawing more pay.

Attention is invited to Ministry of Railway's letter of even number dtd. 11-6-90 in terms of which it has been decided that the benefit of stepping up of pay of seniors with reference to that of juniors should be allowed only in cases where the promotions are on a regular basis. The instructions contained in Board's letter No. PC/III/75/RDP/1/46 dated 5th Oct. 1976 have been withdrawn.

It is further clarified that past cases decided prior to issue of Board's letter dtd. 11-6-90 need not be reopened.

This issue with the concurrence of the Finance Directorate of the Ministry of Railways.

Hindi version of the letter is enclosed.

Please acknowledge receipt.

dt. 31-12-90.

[Signature]
[Signature]
[Signature]

(11)
DIPH

27
~~Reply/Rejoinder/written submission~~
filed by Mr. Anil Kothari
learned advocate for petitioner
Respondent with second set
Copy served/not served & other side

Di. 21/4/94
R. K.

By Registrar C.A.T. U
A'bad Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT

A H M E D A B A D

O. A. NO. 562 OF 1993.

M.M. Pandya ... Applicant

V/s.

Union of India &
another ... Respondents.

Reply on behalf of the
Respondents.

I, B. N. Meena, Senior Division Personnel

Officer, Western Railway, Baroda, herein, humbly

begs to file this reply as under :-

1. That I have read the copy of application filed by the applicant and I am conversant with the facts and circumstances of the case and authorised to file this reply on behalf of Union of India and another for the purpose of opposing of granting of any relief to the applicant.

2. I further state that the action of the respondents is purely administrative and, therefore, the

Copy sent
to
GP Mullu
A
26/4/94

Lto
(A S Kothari)
A

same is not to be judicially reviewed by this Hon'ble tribunal.

3. With regarding to the averments of Paragraphs Nos.1 to 5 of the application, there is no dispute.

4. With regard to averments of Para-6(A) of the application, the averments made therein are denied. It is denied that the applicant was not relieved to join the Post of Promotion at Daboi on administrative grounds. In fact Annexure-A3 at Page 14 of the original application shows a letter dated 12.10.1987 written by the applicant to Resp.No.2 whereby the applicant has stated that "kindly post me in ADI area at SBI-ADI in existing vacancy, vacancy to take place due to retirement or promotion in higher grade and oblige." Thus question of not relieving him on administrative ground doesnot arise.

With regard to averments made in para-6B, I say and submit that V.I.Mehta, CBC Scale-550-750 (R) BRCP was transferred to SBI at his own request. In this connection the applicant was replied as per Sr.DCM(E) DRC'S letter No.EC/M/113 dated 8.7.88 that Shri C.S.

Shukla, CLC/VG has resumed his duty in Scale Rs.1600-2600 (RP) from 24.1.1987 on promotion whereas the applicant resumed his duty on 4.9.1987 in Scale of Rs.1600-2600 (RP) on promotion.

With regard to averments in Para-6C of the application, I say and submit that Shri V.I.Mehta was posted at SBI at his own request. It is the admitted fact that in pursuance to the representation dated 21-3-1988 (A6), that the applicant was given posting at SBI vide letter No.EC/839/4/12 dt.18.2.1987 but before that Shri V.I.Mehta was already posted at SBI vide letter No.EC/M/113 dated 2.1.1987.

With regard to Para-6D of the application, I say and submit that the letter dated 8.7.1988 of resp.No.2 bearing No.EC/M/113 annexed with the application A-7 states that Shri C.S.Shukla resumed his duty at SBI on 24.1.1987 whereas the applicant resumed his duty on 4.9.1987 i.e. 8 months late and due to the same Shri C.S.Shukla became Senior to the applicant and hence Shri C.S.Shukla is drawing higher pay. The same has been done as per rule and stated in the

Resp.No.2's letter dated 8.7.1988.

With regard to averments made in para-6E, I say and submit that Shri C.S.Shukla, CLC/VG resumed his duty in Scale of Rs.1600-2600 (RP) from 24.1.1987 on Promotion, whereas the applicant resumed his duty on 4.9.1987 in Scale of Rs.1600-2600 (RP) on promotion. The delay by the administration in sparing the staff on transfer or promotion can not be considered as one of the administrative error for the purpose of giving proforma fixation and fixation in terms of General Manager(E) CCG's letter No.EP/839/14 dated 29.8.1972. Stepping-up of pay is not admissible in such cases. The applicant was replied through SS/SBI vide DRM(E) BRC's letter No.EC/M/113 dated 8.7.1988 with reference to the applicant's representation dated 21-3-1988.

With regard to averments in Para-6F of the application, I say and submit that the applicant resumed his duty on promotion on 4.9.1987 whereas Shri C.S. Shukla resumed his duty on promotion on 24.1.1987 i.e.

eight months earlier than the applicant and as such, as per rule Shri C.S.Shakla ranked Senior to the applicant and pay being on higher side. The applicant submitted representation dated 30.9.1986 at Annex.A2 of the application requesting the Resp.No.2 to retain him at Sabarmati due to family problems and as such there is no delay on administrative grounds in relieving the applicant. On the applicant's representation dt. 3-5-1990 the matter was referred to SPO(C) CGC vide D.O. letter No.EC/N/113 dated 11-¹⁰1-90, the same is annexed at Annex.A-10 giving copy to SS/SBI to inform the applicant. In this reference, APO(C) CGC has replied vide D.O. letter No.EC/839/4/16/2/VOL-II dated 27.11.1990, the copy of the reply has been supplied to the applicant in reference to his representation dated 3.5.1990 vide DRN(E) BRC's *a + Ann 0/12 with the application.* letter No.EC/M/113 dated 18.12.1990. The applicant again represented vide letter dt. 26.6.1992 and was replied by Sr. DCM(E) BRC's letter No.EC/M/113 dated 30-10-1992 giving copy of reply as per SR.DCM(E) BRC'S letter No.EC/M/113 dated 18.12.1990 (Annex.12).

I say and submit that in terms of Railway Board's
Circulated under Divisional office letter no. EP/839/0/Ldt.
 letter No.E(NG)1-73/PM/130 dated 14.2.1975, ^{10/2/75} benefit

of proforma fixation of pay vis-a-v-si Juniors is
 not permissible in case where the Senior employees'
 promotion could not be carried-out immediately due
 to delay in relieving the person on administrative
 ground, *copy of the same is produced herewith*
as Ann. A/1

Ann. A/1

With regard to Para-6G, the reply is given in
 earlier paragraph.

With regard to averments in Para-6H, there is
 no dispute.

With regard to averments made in Para-6(I), I
 say and submit that stepping up of pay is not permi-
 ssible as per Railway Board letter No.E(NG)1-73/P/L/
130 dated 14.2.1975. The same is conveyed to the applicant
vide letter dt. 18.12.90 ~~is annexed~~ at Annex.A-12
 of the application.

With regard to averments made in Para-6(J) of
 the application, I say and submit that Shri C.S.Shukla
 has resumed his duty earlier than the applicant due to
 delay by administration in sparing the staff.

With regard to averments made in Para-6K of the application, the same are denied. I say and submit that the stepping-up of pay is not permissible as per Railway Board letter No.E(NG)1-73/P/L/130 dt.14.2.1975.

With regard to averments made in Para-6L of the application the averments are denied. I say and submit that it is clearly clarified in the Railway Board letter No.E/P&A/II/90/PP.2 dt.7.8.90 that past cases decided prior to issue of Board's letter dated 11.6.1990 need not be reopened and accordingly as per Railway Boards letter No.E(NG)1-73/P/L/130 dated 14.2.1975 stepping up of pay is not permissible, *as applicant's case was decided prior to that date.*

5. With regard to averments made in Paragraphs -7 and 8, the same need no reply.

6. With regard to averments made in Para-9 of the application, I say and submit that in view of the reply given in the foregoing paragraphs, the applicant is not entitled to the relief asked for and as the application has no merits the same deserves to be dismissed with costs.

7. With regard to Paragraphs 10,11 and 12 the averments made in the application are formal and need no reply.


Under the circumstances, in view of the reply given in the foregoing paragraphs, the applicant is not entitled to any relief and, therefore, the application deserves to be dismissed with costs.

-: VERIFICATION :-

I, B.N.Meena, Sr.Div.Personnel Officer(WR) Baroda, do hereby state on verification that I am conversant with the facts and circumstances of the case and the records pertaining hereto and as such, I say that whatever stated in Paragraphs 1 to 7 above, is true to my knowledge, information and belief and I believe the same to be true.

Identified by me:


Advocate.


.....
Sr.Dvn.Personnel Officer
Western Railway
BARODA

Place: Baroda.

Date : 8-4-1994

F
No.LP/839/04L ose)

RAILWAY

Divisional Office, Baroda.
Dated: 10-4-1975.

Sub: Promotions, Reversions & Transfers of NG.Staff-
Administrative errors.

Ref: G.(E)CCG's letter No.LP/839/14 dt. 3-4-75.

Copy of the above quoted letter is sent herewith for
information, guidance and necessary action.

(4 copies)

for DPO BRC.

CCs IT(3) HCs ED BM E/Sig Med Elect. Engr. C. LEO M1(1) Ch.1/c
(TIC)(TRD) E/Bills Sec. Ch. LMI
Encl: Secretaries, BRC/WREU BRC
of DPO BRC

Copy of the letter No.LP/839/14 dated 3-4-1975 from G.(E)CCG
addressed to all concerned.

Sub: Promotions, Reversions and Transfers of N.G. Staff-
Administrative errors.

A copy of this office letter No.LP 839/14 dt. 21-3-74
addressed to Rly. Board and reply thereto vide Board's letter
No.L(NG)I-73/PH1/13 dt. 14-2-1975 is reproduced below for
information, guidance and necessary action.

Encl: As above.

Copy of letter No.LP839/14 dt. 21st March 74 to The Secretary (A)
Railway Board, New Delhi.

Sub: Promotions, Reversions and Transfers of Non-Gazetted
staff- Administrative errors.

Ref: Board's letter No.L(NG)I-63PH1/92 dt. 13/17-9-64
dt. 20-1-65 & No.L(NG)67PH1/8 dt. 23-6-67.

In accordance with the Board's letter of 17-9-64 quoted
above, there can be two types of Administrative errors involving
loss of seniority and pay:-

8.) A person has not been promoted at all because of
administrative error.

..2..

11) A person has been promoted but not from the date on which he would have been promoted, due to administrative error.

2. The Board desired that each of such cases should be dealt with on its merits. The staff who have lost promotion on account of administrative errors, should, on promotion be assigned correct seniority vis-a-vis their juniors already promoted irrespective of the date of promotion. Pay in the higher grade on promotion may be fixed proforma at proper time and enhanced pay allowed from the actual date of promotion. No arrears on this account shall be payable.

3. In terms of Board's letter No.E(NG)I-71PM/22 of 2-4-71 in reply to this Railway's letter No.E773/3 dt. 13-2-71, when the case of Shri R.T. Kiplani, Traffic Signaller promoted as relieving ASM but not relieved to carry out transfer on promotion due to administrative reasons was referred to the Board, instructions have been issued in this Railway's circular No.EP839/14 dt.29-8-72 (copy enclosed) that delay by the administration in sparing staff on promotion cannot be considered as an administrative error for giving proforma fixation. On receipt of General Secretary, MSIA's letter dt. 6-3-73, the Board called for remarks of this administration vide No.E(NG)I-73PM1/131 of 25-11-73 which has been replied in this Rly's letter of even No. dt. 17-12-73.

4. As regards the question of Proforma fixation of pay, the point for consideration and decision is as to what should constitute and be construed as an administrative error. In this context, two types of administrative errors, one of non-promotion and the other of belated promotion, have been indicated in Board's original directive of 17-9-64. If an employee who was not promoted at all because of an administrative error, or an employee was promoted not from the due date but from a latter date, also on account of administrative error, could get the benefit of proforma fixation, it stands to reason that an employee who is promoted on the due date to administrative reasons should also get the same benefit. Error in the normal course cannot be transgression, blunder or fault. Failure on the part of the administration to relieve an employee who is correctly promoted on the due date, on the grounds of administrative necessity, can be correctly characterised as a transgression or a fault which, by itself, is an

...3...

58

32

error. It is, therefore, considered that all such cases should normally fall within the definition of administrative error which as referred to in Board's letter of 17-9-64. It is quite likely that while issuing the orders of 17-9-64, Railway Board may not have aware of a large number of cases on the railways where eligible staff, though promoted on due date, are not relieved in time on promotion due to administrative reasons, and as such, this particular type of contingency was not included in the Board's directive.

5. In this context, in reply to Board's letter of 29-11-73, Board have been advised of the circumstances in which the administrative instructions of 29-8-72 have been issued. While apprising the Board of these circumstances, the Board were, however, not been advised that there are a number of cases in which the benefit of proforma promotion and fixation of pay have been denied on the ground that failure to relieve them in time on promotion, has not been considered as administrative error. Hence Board are requested to confirm that even in cases where the staff are not relieved in time on promotion due to administrative reasons the benefit of proforma fixation should be given from the date their juniors have been promoted.

Copy of Board's letter No.B(HG)1-73PM1/130 dt. 14-2-75 to The GM, Western Railway, Bombay.

Sub: Promotion, reversions and transfers of non-gazetted staff- Administrative errors.

Reference your letter No.EP/839/14 dated 21-3-74 on the above subject. The Board observe that under extant rules, the benefit of proforma fixation of pay vis-a-vis juniors is not permissible in cases where the senior employee's promotion could not be carried out immediately, due to delay in relieving him on administrative grounds.

SVD*/9-4-75.

MA/ST/477/95
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

33

O.A./T.A./M.A./B.A./C.A.No. (499/95) in 04/562/93

MR. M.M. Pandya

MR. G.D. Mahotla

APPLICANT (S)

COUNSEL

VERSUS

U.O. 1. & O.O.

MR. Anil Kothari

RESPONDENT (S)

COUNSEL

DATE

OFFICE REPORT

ORDER

Early Hearing

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BENCH AHMADABAD

M. A. No. 499 of 1995

IN O. A. NO. 562 of 1993

M. M. Pandaya

Applicant

V/S

Union of India and Ors

Respondents

Application for early hearing

The applicant most respectfully submits as under

The applicant has filed O.A.No 562/1993 in this Hon Tribunal praying therein for stepping up his pay to that of his junior as he was promoted later than his junior due to which anomaly in pay has arisen. The said application has been admitted to be heard in due course .

The applicant submits that he is a retired employee and not keeping good health and as such matter may kindly be kept for early hearing so that he feels contented

In view of the above facts it is respectfully prayed that this Hon Tribunal be pleased

- A) to admit this application
- B) to direct to keep the original application for early hearing in the interest of justice
- C) to pass any other ~~any~~ order or relief which may be deemed fit just or proper.

VERIFICATION

I the abovenamed applicant do hereby verify and state that the contents of the above paras are true to the best of my personal knowledge and belief and no material fact has been suppressed by me

ahmadabad

Dated 25-7-95

Applicant

Filed through

G.R. Malhotra Advocate

Copy sent
Mr AS Malhotra
Gur.

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Before the Central Administrative Tribunal
Ahmedabad Bench, Ahmedabad.

Original Application NO. 562 of 1993.

M.M. Pandya,

.....Applicant.

Versus.

Union of India and anr.

.....Respondents.

REJOINDER

The applicant submits as under :-

1. With regard to para 1 and 2 of the reply, the applicant submits that the contents as stated by the respondents are misconceived and misleading .
2. With regard to para 3 formal being no reply.
4. With regard to para 4 the applicant submits that the contents of the para made by the respondent which are contrary to the contents of the O.A. are not admitted and has denied. For sake of brevity and to avoid repetition the contents of the reply given by the respondent which are contrary to the averments made by the applicant and the O.A. are not admitted and hence denied. It is therefore submitted the applicant was entitled to the pay equal and to that of his Junior from the date he was promoted as the applicant was not relieved to the ~~xxxxxx~~ join the post of promotion immediately as it has been done in the case of his junior shri C.S. Shukla, he was promoted in the scale of

Received
V. Holkar
24-6-96

Today, presented
by the Applicant
Aver. on C.A.R.
Mulholtra ~~in~~
the Hon-Bench
Jmms
Call
24-6-96

Rs.1600 - 2600 from 24.1.1987 whereas the applicant was released to resume his duty on 4.9.1987 and hence he is entitled to the pay from the date of junior was promoted i.e. from 24.1.1987. It is further submitted ^{in the identical case} that pay of Mr. M.C. Rane, ~~xxx~~ at CLC/ARS was given fixation of pay from the date his junior Mr. C.V. Harshe, was given promotion as per the Ann. A-14 colly. and which can be referred at the time of argument to satisfy the court. Therefore, the averments made by the respondents in para 4 are hereby denied so far as they are stated contrary to the averments made by the applicant in para 6A to ~~6E~~ 6F. Moreover, the ~~xx~~ Railway Board's letter as per Annexure R-1 is not clear and not binding on the applicant as the same is discriminatory and against the fundamental rule 22 C.

It is further denied the persons who gets early promotion though being Junior does not become senior as stated by the respondents without spot of any rule and therefore, the said contents are without any legal effect and the Rly. Board's order on with the respondents relied have not legal effect as it can not take away the benefit accrued to the promotional post of the applicant for with he was entitled to pay fixation from the date the Junior was promoted, and as such the said Rly. Board's letter is arbitrary, discriminatory and ~~is~~ violative of Article 14 and 16 of the Constitution of India.

With regard to ~~para~~ reply of the para 6 F to 6 K of the application the averments made by the respondents are misleading and therefore, applicant is entitled to stepping of his pay equal to that his junior from the date the junior was promoted. and therefore, it is pertinent to note that the Rly. Board's letter Annexure : R-1 has no legal force as being discriminatory and violative of rules natural justice, equity and as well as the articles of 14 and 16 of the Constitution of India. The applicant craves leave to add, or delete, or to argue any other point of law at the time of hearing, and it should not to be contrued that the applicant has admitted the contents of the reply by the respondents were there is no specific reply by the respondents., for the sake of brivety.

5. With regard to para 4 need no reply.

6. The reply of the respondent in this para is not maintainable and misleading and therefore, in view of the rejoinder the applicant is entitled to for the pray and relief framed in para ⁹ of the O.A. and therefore, deserves to be allowed with the cost to the applicant.

7. With para is not replied.

Place : Ahmedabad.

Date. : 29/4/1996

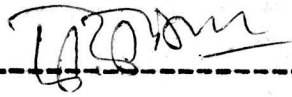


: VERIFICATION:

I, the abovenamed applicant do hereby verify and state the contents of the above paras are true to thebest of my knowledge, based on official document as well as advice and I further under take that the no material fact has been suppressed by me and the annexures are the true copies of the original document.

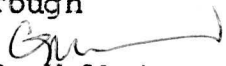
Place : Ahmedabad.

Date. : 24.4.1996



Applicant.

Through


G.R. Malhotra
Advocate for the applicant.

//COPY//
No. EC/M/247.

24
Date 12.9.89
1.90

From:-Sr.DCS (E) BRC.

To, SS/ADI.

Sub:-Pay fixation in favour of shri M.G.Rane.

Ref:-ARS ADI and CLC ADI.

This office letter No. EE/839/4/R PT I dt. 31.8.89.
The pay of the above named is refixed as under:-

On his promotion as HBC/CBC in scale Rs. 425/640(R)/425 -700(R) with effect from 1.1.84 and proforma fixation as CLC in scale Rs. 1600-2660(RP) with effect from 22.8.88 i.e. the date of promotion of his Junior Shri C.V. Harshe V.I. OGS accordingly. He will be lgible for proforma pay fixation in scale Rs. 1600-2660(RP) from 22.8.88 and payable from 1.9.89 only i.e. the date of his actual promotion as CLC in scale Rs. 1600/2660(RP)

Present position

Scale.	Pay.	Date.
330-560	500	1.12.83
-do-	515	1.12.84
425-640	545	1.1.85
455-700	580	5.6.85

His increment due on 1.6.86 and payable from 10.7.86 to shri Rane is withheld for 2 years+6month+6 months without effect and hence he should be paid @ Rs. 1600/-p.m. from 1.1.86 and at pay Rs. 1720/-pm from 10.7.86 and at pay Rs. 1900/-pm from 1.6.89 only DA pay fixation card copy to CC/Pay bill(Tfc).

Revised position

Scale.	Pay.	Date.
425-640	530	1.1.84 (pay-able)
455-700	560	1.1.84 "
-do-	580	1.1.85 with
-do-	600	1.1.86 held
-do-	640	1.1.86 Pay-
-do-	1760	1.1.86 able
1600-2300	1800	1.1.87 paybl
-do-	1800	1.1.87 with
-do-	1850	held
1600-2660	1950	1.1.88 pay-
-do-	(Not payable)	22.8.88 abl
-do-	2000	(Not payable)
-do-	2000	1.8.89
-do-	(Not payable)	1.8.89
-do-	2000	(Not payable)

He should be paid at 560/-pm from 1.1.84 at pay Rs. 1640/-pm from 1.1.86 and at pay Rs. 1850/-pm from 1.1.88 and at pay Rs. 2000 from 1.9.89.

OS/ET.

Sd/-
Sr.DCS (E) BRC.

Jan 4/89

Cm

Pay particulars of Shri M. M. Pandya
Senior.

<u>Scale.</u>	<u>Pay.</u>	<u>Date.</u>
455-700(R)	1950	1/1/87
1600-2660	2050	4/9/87
-do-	2100	1/9/88
-do-	2150	1/9/89
-do-	2200	1/9/90
2000-3200	2300	14/12/90
-do-	2300	1/1/91

29
Pay particulars of Shri C. S. Shukla
Junior

<u>Scale.</u>	<u>Pay.</u>	<u>Date.</u>
455-700(R)	1950	1.1.87
1600-2660(RP)	2050	24.1.87
-do-	2100	01.1.88
-do-	2150	01.1.89
-do-	2200	01.1.90
2000-3200	2300	14.12.90
-do-	2375	01.1.91

NB:-Option for pay fixation in 2000-3200(RP) from date 1.1.91 was submitted.

the wff
ca