

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD**

O.A.No. 597/1993

Ahmedabad this the 24<sup>th</sup> day of August, 1999.

**Hon'ble Mr. V. Ramakrishnan, Vice Chairman.**

Shri T.A. Pawadai,  
Hindu, Adult, Aged about 62 years  
Occupation: Retd. Railway Servant  
Address: C/o Shri A.T.Thangavel,  
Cleaner,  
Railway Quarter No. 148/E  
Bhavnagar Colony  
SURENDRANAGAR.

Applicant

By Advocate: Mr. B.B. Gogia

VERSUS

1. Union of India  
Owning & Representing  
Western Railway, through:  
General Manager,  
Western Railway, Churchgate,  
Bombay-20.
2. Dy.Chief Engineer (Construction)  
Western Railway  
Kota.
3. Divisional Railway Manager,  
Western Railway,  
Baroda Division,  
Pratapnagar, Baroda.

Respondents.

By Advocate: Mr.N.S. Shevde for R-3.

**ORDER (Oral)**

**Hon'ble Mr. V. Ramakrishnan, Vice Chairman.**

I have heard Mr. Gogia for the applicant and Mr. Shevde for the respondents.

2. The applicant has prayed for a direction that the pay should be fixed as determined by the authorities earlier by their letter dated 25.6.92 as at Annexure A-6 and his retiral benefits should be calculated on that basis. Mr. Gogia for the applicant submits that the subsequent order dated 26.8.92 as at Annexure A-7 which reduced the pay fixed by the earlier letter is not proper and should be quashed.

3. The applicant was visited with disciplinary proceedings and was reverted from the regular post of PWM for a period of two years by an order dated 26.8.1982. He challenged this order before this Tribunal and the Tribunal while disposing of TA 1293/86 on 20.5.88 as at Annexure A-1 had quashed the reversion order and directed that he should be treated as in the former post from the date of his reversion and will be paid the difference in pay and allowance etc. The Tribunal had noted that he was not given a copy of the enquiry report etc. and gave liberty to the respondents to proceed against him according to law. It is not in dispute that the respondents did not decide to take any further action and the order of the Tribunal restoring him to the post of Permanent Way Inspector become final. The applicant meanwhile had retired on 31<sup>st</sup> January, 1996.

4. After the Tribunal's order was rendered, the Railways issued an order dated 25.6.92 as at Annexure A-6 by which his pay was fixed at Rs. 2150/- with effect from 1.10.86. Subsequently an order was issued which brought down his pay to Rs.2100/- with effect from 1.10.86 and fixed his pay at Rs. 2150/- with effect from 1.10.87.

5. Mr. Gogia submits that earlier order was rightly issued as it had given to the applicant the increment which he would have earned in the post when the reversion was set aside by the Tribunal. He also says that the subsequent order reducing his pay was issued without giving any notice to him.

6. Mr. Shevde had referred to the reply statement. He however does not dispute that no notice was given before the revised order at Annexure A-7 was issued.

7. The materials on record do not disclose as to why the pay should have been brought down. The effect of the Tribunal's order quashing the reversion was that the applicant was taken ~~back~~ to be in continuous charge ~~and~~ the post of PWI Grade-III and would be entitled to increment in that post. It was necessary to ascertain the pay in the post of PWI Grade III as on 31.12.85 and to fix his pay in the revised scale with effect from 1.1.86 and to give increment in the revised scale on 1<sup>st</sup> October 1986. The respondents are not able to clarify as to whether the order dated 26.8.92 as at Annexure A-7 was issued on account of any incorrect calculation made by the earlier order of 25.6.92. In any case I record the submission of the applicant that notice was not given to the applicant before his pay was brought down. The order dated 26.8.92, Annexure A-7 entails civil consequences as it has reduced the

pay of the applicant which was fixed earlier by the order dated 26.6.92 which again does not say it <sup>was</sup> ~~would~~ done provisionally. There is an endorsement in that order that the service sheet of the applicant was not traceable but the subsequent order also reiterates the same position and it is not as if the correct facts came to light on the basis of the service sheet. m

8. I take note of the submission of the respondents that notice was not given to the applicant before issuing the order dated 26.8.92. This has resulted in violation of principle of natural justice and I quash the order dated 26.8.92 as at Annexure A-7 but give liberty to the respondents to issue show-cause notice to the applicant bringing out the reason for reducing his pay and offering him an opportunity to have his say. If the respondents choose to issue such show-cause notice, they shall take further appropriate steps after giving an opportunity to the applicant to reply to such show-cause notice. If it is finally decided that the pay is to be fixed at the higher level, the respondents shall recalculate other benefits on that basis and take appropriate action as expeditiously as possible.

8. With the above direction, the OA is finally disposed of. No costs.

  
(V. Ramakrishnan)  
Vice Chairman

Vtc.



CENTRAL ADMINISTRATIVE TRIBUNAL, DE LHI

Application No.

08/597/93

of 19 .

Transfer application No.

Old Write Pet. 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: 28-09-99

Countersigned.

Section Officer/Court Officer.

*Mr. K. S. S. S.*

*[Signature]*

Signature of the Dealing Assistant.

## CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD

CAUSE TITLE

081/597/93

NAME OF THE PARTIES

T.A. Damachani

VERSUS

U.O.I. & Ors

SR NO.

DESCRIPTION OF DOCUMENTS

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1 to 25

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081/555/93

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03.

Reply

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04

O.O. dtd. 24-08-99

(4 pages)



CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Submitted:

C.A.T./JUDICIAL SECTION.

Original Petition No:

597

of

1993

Miscellaneous Petition No:

of

Shri

T. A. Pawadeni

Petitioner(s)

Versus.

UO 1208

Respondent(s).

This application has been submitted to the Tribunal by  
Shri B. B. Gogia

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 Applications has been found in order and may be given to concerned for fixation of date. *Legality of Amendment may be seen.*

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

ASSTT:

S.O. (J):

D.R. (J):

KNP24492.

CPHagan  
12-10-93

Prab  
12-10-93

## BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO:

597/93

Shri T.A.Pawadai,  
C/o Shri A.T.Thangavel,  
Rly.Gr.No.148/E,  
SURENDRANAGAR

:: APPLICANT

Versus

Union of India and 2 others


:: RESPONDENTS

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Rajkot/Ahmedabad

Date: 11-10-93

  
 APPLICANT

For the use in Tribunal's Office

Date of filing

or

Date of receipt by post

Registration No.

Signature  
for Registrar

Filed by Mr. B. B. Gogia  
Learned Advocate for Petitioners  
with second set & three spare  
copies copy served/not served to  
other side

Di. 11/10/93 Dy Registrar C.A.T.(J)  
A'bad Bench



BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO:

/93

Shri T.A.Pawadai,  
Hindu, Adult, Aged about 62 years  
Occupation: Retd. Railway Servant  
Address: C/o Shri A.T.Thangavel,  
Cleaner,  
Railway Quarter No.148/E,  
Bhavnagar Colony,  
SURENDRANAGAR

:: APPLICANT

Versus

- 1) Union of India,  
Owning & Representing  
Western Railway,  
Through:  
General Manager,  
Western Railway,  
Churchgate,  
BOMBAY - 400 020
- 2) Dy. Chief Engineer(Construction)  
Western Railway,  
KOTA
- 3) Divisional Railway Manager,  
Western Railway,  
Baroda Division,  
Pratapnagar,  
BARODA

:: RESPONDENTS

DETAILS OF APPLICATION

1. Particulars of the order against which the Application is made.

The Applicant submits that the present application is not filed against any specific orders passed by the Respondents. However the same is filed for directions to the respondents to pay the difference of salary and allowance,

as a result of withdrawal of the penalty of reversion for 2 years with future effect vide Dy.Chief Engineer(S&C), Western Railway Kota's Office Order No.606 dated 13.4.1992 consequent upon the judgement passed by this honourable Tribunal in TA. No. 1293/86 on 20.5.1988, upward revision of pay upto the period of retirement, revision of Pension and Pensionary benefits and for effecting payment on all these counts to the Applicant.

## 2. Jurisdiction of the Tribunal

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

## 3. Limitation

The Applicant submits that there is some delay in filing this Original Application and hence he has separately filed a Miscellaneous Application on date praying for condonation of time limit.

## 4. Facts of the case

The Applicant respectfully begs to submit the facts of this case as under:-

- 1) That the Applicant was a Permanent Way Inspector Grade III in scale Rs.425-700(RP)/Rs.1400-2300(RP) in the Survey & Construction Department of Western Railway. The Applicant was ordered to be

reverted from the post of Permanent Way Inspector (Const) Gr.III (in short PWI(C) Gr.III) to the post of Permanent Way Mistry (in short PWM) for a period of two years with future effect vide Executive Engineer(Construction), Western Railway Rajkot's order No.RJT/E/308/1/1 dated 26.8.1982. The Applicant had filed a Regular Civil Suit No.558/84 in the court of honourable Civil Judge (Sr.Division) Rajkot against the said penalty. This matter was subsequently transferred to this honourable Tribunal and re-numbered as TA No.1293/86. This TA was disposed off by judgement dated 20.5.1988 by this honourable Tribunal quashing the impugned order of reversion passed against the Applicant treating him as reinstated in his former post from the date of reversion with continuity of service and all other consequential benefits. A xerox copy of the judgement in TA No.1293/86 is annexed herewith as

Annexure A/1.

ii) The Applicant submits that he retired from service on 31.1.1988 on attaining the age of superannuation while working under Dy.Chief Engineer(Const) Kota, i.e. before the delivery of judgement in TA No.1293/86. The Applicant submits that the Respondents did not chose to continue with the Disciplinary proceedings as permitted by this honourable Tribunal in the judgement referred to above.



iii) The office of the Dy.CE(S&C)Kota in terms of its letter No.NRD/E/789/1 dated 21.8.1991 addressed to Dy.CE(C)Ahmedabad informed that since Applicant, who was transferred from Rajkot as PWI Gr.III and retired has requested for payment of arrears of pay etc. on the basis of the said judgement at Annexure A/1. Copy of the said letter dated 21.8.1991 from Dy.Dy.CE(S&C)

A/2

Kota is annexed herewith as Annexure A/2. This was further followed by reminder dated 16.2.1992 to CE(C) Ahmedabad requesting him to take early action in the matter as requested to finalise the issue. Copy of letter dated 16.2.1992 from Dy.CE(C)Kota is annexed

A/3

herewith as Annexure A/3. The Chief Engineer(Const) Ahmedabad vide letter No.RJT/E/558/84/221 dated 23.3.1992 advised Dy.CE(C)Kota that no appeal/review was filed by that office against the judgement of CAT Ahmedabad filed by the Applicant and accordingly he would be entitled to the benefit of grade of PWI(C) Gr.III, copy of letter dated 23.3.1992 from Chief Engineer(Construction) Ahmedabad is annexed herewith as Annexure A/4.

A/4

iv) The office of Dy.CE(S&C)Kota for the first time in terms of letter dated 13.4.1992 passed Administrative Orders declaring that the punishment imposed of reversion for 2 years with future effect has been quashed and that there was no appeal or review filed



against the judgement and reversion from 12.10.1982 to 11th October 1984 be treated as cancelled. Copy of letter dated 13.4.1992 issued by Dy.CE(S&C)Kota is A/5. annexed herewith as Annexure A/5.

\*) Subsequently the Dy.CE(S&C)Kota vide his office order No.E.773/1 dated 25th June 1992 issued memorandum refixing his pay on account of the reversion having been cancelled. He was accordingly granted due increments and pay was fixed as under:

Scale		Pay as on 1.1.86		Date of	Pay after
Old	Revised	Old	Revised	Increment	grant of increment
425-700	1400-2300	680.00	2000.00	1.10.86	2050.00
		Increment which were withheld for two years i.e. 1.10.84 and 1.10.85		1.10.86	2150.00
				1.10.87	2200.00

A copy of the memorandum dated 25.6.1992 is annexed A/6 herewith as Annexure A/6. The applicant is surprised and shocked to receive further communication vide CE(KCP) Kota's letter dated 26.8.1992, wherein the pay fixation of the ~~applicant~~ applicant has been reduced to Rs.2100.00 as on ~~10x~~ 01.10.1986. Copy of letter dated A/7 26.8.1992 is annexed herewith as Annexure A/7. It was also mentioned in this letter that this pay fixation would be got vetted and arrars would be arranged. However till this time no arrears are paid to the Applicant.

The Applicant further submits and produces herewith a copy of letter from CAO(C), Churchgate, Bombay to Dy.CE(C) Ratlam and Kota still asking for copy of the judgement and copy of representation for taking needful action in the matter. Copy of letter dated 25.9.1992 from CAO(C) Bombay is annexed herewith as Annexure A/8. This Annexure A/8 has given an impression to the Applicant that the Respondents are not serious enough to release the benefits flowing from the judgement as due to the applicant including revised pensionary and terminal benefits from the due date. This judgement is now asked for by the CAO(C)Bombay after two years of the fixation done. The Applicants are dealing with the matter very casually and slowly and no importance or urgency is attached to the matter, which is detriment to the interests of the Applicant. The applicant has retired from Railway service on attaining the age of superannuation and he and his family members are living on the pension only. The arrears of salary due to him which have been withheld because of non fixation of pay are not yet paid to him. The judgement in question is of 1988. Now more than 5 years have passed. The respondents have not taken effective action to get him his arrears on account of fixation of pay, revision of pension & pensionary benefits etc.

This has caused the Applicant to approach this honourable Tribunal for directing the Respondents to take necessary and time bound actions in settling the case of the applicant. The Applicant is also entitled to interest at the rate of 15% on the amounts withheld from him from the date of judgement i.e. from 20th May 1988 and/or from any other date as deemed just and proper by this honourable tribunal. As a matter of fairness he cannot be denied with this since the correspondence referred to above clearly shows that the delay tactics existed on the part of the Respondents in finalising the issues.

vi) The Applicant further make his grievance and submits that his pay was rightly and correctly fixed at Rs.2150/- on 10.10.1986 vide Annexure A/6. The applicant submits that there is no reason whatsoever that too without intimating any reasons or hearing the applicant the said pay fixation has been resided to Rs.2100.00 on 1.10.1986 vide Annexure A/7. The Applicant submits that such action taken as per Annexure A/7 is contrary to the principles of natural justice and also contrary to the rules of pay fixation.

5. Grounds for Relief with legal provisions

- i) Delay in payment of pay fixation arrears of the pay fixed as per Annexure A/6, delay in refixation of Pension & pensionary benefits and other terminal benefits on the basis of the pay fixation vide Annexure A/6 are ~~arbitrary~~ arbitrary and violate the fundamental rights of the applicant.

6. Details of the remedies exhausted

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

7. Matters not previously filed or 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 or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought

- A) The Respondents may please be directed to pay arrears of salary due to him on the basis of Annexure A/6 by which his pay has been refixed and release him all other benefits of pension, gratuity etc. as available to him on account of the fixation of pay vide Annexure A/6 with interest



at the rate of 15% per annum till the amounts are released and paid to him.

- B) Any other better benefit/benefits as this honourable Tribunal deem just and proper looking to the facts and circumstances of ~~xxx~~ the matter may please be awarded to the Applicant.
- C) The cost of the application may please be awarded to the Applicant from Respondents.

9. Interim orders if any prayed for

NIL

10. In the event of application being sent by Registered Post, it may stated whether the Applicant desires to have oral hearing at the Admissiion stage and if so, he shall attach a self-addressed post card or inland letter at which intimation regarding the date of hearing could be sent to him.

'NOT APPLICABLE'

11. Particulars of the Postal Order filed in respect of the Application fee

- |                                     |                              |
|-------------------------------------|------------------------------|
| 1. Number of Postal Order(s)        | : 928088                     |
| 2. Name of issuing Post Office      | : HEAD POST Office<br>Rajkot |
| 3. Date of issue of Postal Order(s) | : 13-09-1993                 |
| 4. Post office at which payable     | : —————<br>for Rs 50/-       |

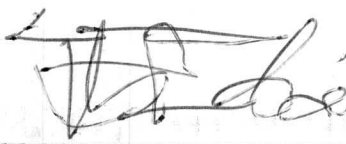
12. List of enclosures

1. Postal Orders as per Para 11 above
2. Vakalatnama
3. Documents from A/1 to A/67

Rajkot/Ahmedabad

Date:


VERIFICATION


  
Applicant

I, T. A. Pawadai, son of late Shri ARUMUGAM  
PAWADAI aged about 62 years working as: Retired  
from Railway Service, resident of Surendranagar do  
hereby verify that the contents of para 1 to 3 and 6 to 12  
are true to my personal knowledge and para 4 to 5 are  
believed to be true on legal advice and that I have not  
suppressed any material fact.

Rajkot/Ahmedabad

Date:

  
Applicant

Through:  
  
Shri B.B. Gogia,  
Advocate,  
Rajkot

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

~~XXXXXX~~  
T.A. No. 1203 OF 1986

(R.C.E. No. 154 OF 1984)

DATE OF DECISION 20.5.1988

SHRI T.A. PANDAI Petitioner.

MR. P.M. QUTIA Advocate for the Petitioner(s)

Versus

THE UNION OF INDIA & ORS. Respondent.

MR. B.K. KYALA Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN.

The Hon'ble Mr. P.R. JOSHI, JUDICIAL MEMBER.

Shri T.A. Pawadel,  
Adult, Occur Service,  
C/o. Shri A. Sethi,  
Railway Quarter No.62/B2,  
Vathi Compound,  
Rajkot - 360 001.

(Advocate : Mr. D.D. Doshi)

..... Petitioner.

Versus.

The Union of India,  
Owing & Representing  
Western Railway, through  
General Manager,  
Western Railway,  
Churchgate, Bombay.

..... Respondents.

(Advocate : Mr. D.R. Kyada)

### J U D G M E N T

T.A.No. 1293 OF 1986

(R.C.E.No. 558/1984)

Date 120.5.1988

Per: Hon'ble Mr. F.M. Joshi, Judicial Member.

The petitioner Shri T.A. Pawadel, was a Permanent Way Inspector, scale Rs. 425-700(H), in Survey and Construction Department in Grade III. While he was acting in that capacity on Varanasi-Onna-Por under Conversion Project, at Rajkot, a charge sheet dated 29.11.1980 was served on him containing three articles of charges alleging misconduct which reads as under:-

(A) Non-identical thumb impressions affixed by different persons against one name either in description or payment column in M.C.P. Sheet or in register of Specimen thumb impressions obtained at the time of appointment. In view of physical evidence of non-identity existing in M.C.P. Sheet which clearly shows that the payment has not been made to the original incumbent i.e. whose T.I. was obtained at the time of appointment in the 1st day attendance in M.C.P. Sheet.

(B) Identical thumb impressions affixed by one and the same persons against different names either on the 1st day of attendance in description column of M.C.P. Sheet or





4.14

2000

9



- 7/27/94  
X-661001 Thoreg  
X-661002 Michaelson  
X-661003 Schoultz  
X-661004 Pegg

... (C) had identified and  
witnessed [redacted] the same person  
working his way through the office  
[redacted] back to the [redacted] power.

(14)

-4-

This amply proves the allegations grouped under Group 'B' of the statement of imputation. This act on the part of Shri Yawadai is considered as a willful act of mal-practice in the payment to labour.

3. In view of the aforesaid findings the Executive Engineer by his office order No. RJT/108/1/1 dated 26.8.82 held the petitioner responsible for the charges and awarded him a penalty of "reversion for a period of two years as Permanent Way Ministry with future effect". Being aggrieved by the order imposing penalty of reduction in rank, the petitioner preferred an appeal against the same to the Engineer-in-charge (C), Ahmedabad on 20.10.1982. However, when the said appeal was not decided even after a lapse of about 16 months, the petitioner was constrained to file a Regular Civil Suit No. 550/84 in the Court of Civil Judge (S.D.) Rajkot on 3.5.1984. He called in question the impugned order of penalty imposed upon him on the grounds that the enquiry held against him was neither fair nor just as the documents, material for the defence, even though demanded, were not supplied and the conclusions arrived by the disciplinary authority were the result of non-application of mind and the enquiry was vitiated as he was not furnished with a copy of the report of the enquiry before passing the impugned order and even the punishment imposed upon him is disproportionate.

4. Mr. M.H. Udani appeared for the defendants-Railway Administration on 10.6.1984 and sought time to file written statement. Thereafter several opportunities were granted to the defendants to file the written statement, but the same was not filed till the matter was transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985. Notices were issued to the parties. In response, whereof Mr. B.B. Gogia and Mr. B.R. Kyada appeared for the petitioner and the respondents respectively. The respondents were given more opportunities to file the reply but they have not preferred to file any counter. The learned counsel for the parties waived oral arguments and they were allowed to file written submissions. Mr. B.B. Gogia, has filed his written submissions which has been taken on record.

...../-



5. Mr. B. B. Gogia, the learned counsel for the petitioner has raised three-fold contentions in his written submissions viz; (i) non furnishing of the report of the inquiry officer vitiates the departmental proceedings (ii) the disciplinary authority had pre-judged with closed and pre-determined mind when it stated "since these cases are based on verification of thumb impression of labourers, there is no doubt in the correctness of the case". In the statement of imputations issued by it. (iii) the findings of the disciplinary authority are vague and not conclusive as he has not given adequate consideration to the complicated issues and evidence of as many as 10 witnesses of the inquiry.

6. Having regard to the materials brought on record, on careful consideration, we do not find merits in the last two contentions canvassed by Mr. Gogia. In all departmental proceedings, ordinarily, the disciplinary authority has to be convinced prima facie, that there is a case of inquiry to be held against the delinquent and in all cases where a major penalty is envisaged, it is indicated in charge sheet that the alleged misconduct involves lack of devotion to duty and conduct in violation of a Government servant. In the case of such words or phrases in the charge sheet, it can not be said that the authority is guilty of pre-judging the issue or pre-determining the matter, it can not be said that the authority had a pre-determined mind. It is now well settled that the enquiry report along with the evidence furnished constitute the material on which the Government has ultimately to act. It is conceivable that if the state Government does not accept the findings of the inquiry officer which may be in favour of the delinquent officer and proposes to impose a penalty on the delinquent officer it is not necessary that it should be satisfied or convinced with the conclusions of the inquiry officer. Even in such a case it is not necessary that the reasons should be detailed or elaborate. That it does not require any further evidence or concurrence must be

supported by reasons in such a manner that it is not necessary for the disciplinary authority to state its own findings (see Tarachand V/s. Delhi Municipality, 7 Lab. L.J. (A.C.) 55). In the present case the disciplinary authority, while passing the impugned order imposing penalty upon the petitioner, concurred with the findings and the reasoning assigned by the inquiry officer holding the petitioner guilty of the charges levelled against him. He has also in brief recorded his own reasons for his decision on the reverse side of the order dated 28.6.82.

6. The only crucial question for our consideration is whether the impugned order passed by the disciplinary authority is vitiated because the petitioner was not given a copy of the report of the inquiry officer and was not heard before arriving at the findings. Relying on the case of Hibaran Chandra Bose V/s. Union of India (1981 1 FTR 121 (C.A.T. Calcutta)), it has been vehemently contended by Mr. Singh that the imposition of penalty suffers from a serious infirmity as the petitioner has not been furnished with a copy of the enquiry report along with notice imposing penalty of reduction in rank as required under law.

7. In the instant case, the disciplinary authority on the basis of the findings of the inquiry officer decided to impose a penalty of "rev. solon for a period of two years as from 1st May 1982 with future effect". Admittedly, the disciplinary authority has not taken care to furnish a copy of the report of the inquiry officer to the petitioner-delinquent, either even prior to the passing of the impugned order or even thereafter. In H.A. Khalsa V/s. Union of India & Ors., T.A.No. 463/86 & O.A.No. 257/86, decided on 1.12.86 by this Bench, we found that when the petitioner delinquent had been informed of the charges

.....7/-



against him and given a reasonable opportunity of being heard and he had been supplied with a copy of the report of the inquiry officer and the disagreement note which enabled him to prefer an appeal to the appellate authority against the order of dismissal. It can not be said that the order of dismissal was vitiated in any manner. While reaching to this decision we had mainly relied on the proposition of law laid down by the Supreme Court in Secretary, Central Board of Excise & Customs and Ors. v/s. K.S. Mahalingam (A.T.R.1996 (2) 4.C.4). The said case of Mahalingam came up for consideration before the Bench of the Supreme Court consisting of H.B. Thakkar & H.D. Dhanraj. While hearing the case of Union of India & Ors. v/s. K. Dhanraj, decided on 11.3.1990 (JT 1990 (1) 3.C.627). His Lordship Mr. Justice Thakkar, speaking for the bench observed as under:-

While referring the case to a larger Bench of the Supreme Court, it was further observed that in Mahalingam case this question was not directly in issue and as neither been presented nor discussed in all its ramifications and it is therefore futile on the part of the petitioners to contend that the point is covered and declined in their favour.

.....8/-



(18)

on 6.11.87. In the judgement of the Full Bench delivered by Mr. Justice K. Madhava Reddy, Chairman, having noted the changes made in Article 311 of the Constitution, after 42nd Amendment Act, 1976 and the Railway Servants (Discipline & Appeal) Rules, 1968, he has extensively discussed the case law on the issue. While quashing the order imposing the penalty of removal from service, it was held that the findings of the disciplinary authority are bad in law and is vitiated because the applicant was not given a copy of the report of the Inquiry Officer and was not heard before arriving at the findings. The dictum in the decision puts the point amply clear that "the limited departure made by the 42nd amendment Act, 1976, is that no second show-cause is necessary with respect to the penalty proposed to be imposed. But the obligation to afford a reasonable opportunity to defend himself and to observe the principles of natural justice by supplying all the materials sought to be put against the charged officer which includes the Inquiry Report is not in any way whittled down. The denial of a copy of the enquiry report and opportunity to make representation against it offends the principle of natural justice and violates the provisions of Article 311(2) itself". In all propriety, we respect the most considered view taken by the Full Bench in the said case.

10. Bearing in mind, the position of law as discussed above we clearly of the opinion that a duty was enjoined upon the disciplinary authority in the instant case that he should have furnished the petitioner-delinquent, a copy of the Inquiry Report and when that has not been done the requirement of the rule can not be said to have been fulfilled. We therefore hold that the imposition of penalty as had been done by the disciplinary authority can not be sustained and it is liable to be set aside.

Before parting with, we make a note of the fact that in the meantime, the petitioner has retired from the service since January 1988. The petitioner, in his written submission has expressed his grievance that he had preferred an appeal before

the competent authority which has remained undecided for the last six years. In the suit filed by him he has prayed that the impugned order dated 26.8.82 be quashed and set aside and it should be declared that he continues to be in the service of the respondents railway administration as permanent Way Inspector with all the benefits of his pay and salary etc.

12. The net result of the aforesaid discussion, is that the petitioner is entitled to claim the reliefs as prayed for. As a result, we allow the application and quash the impugned order dated 26.8.82 passed by the disciplinary authority against the petitioner. The petitioner should be treated to be reinstated in his former post from the date of his reversal and be paid all his arrears of difference in pay and allowances, admissible under the rule and the same should be worked out within three months from the date of this order. The respondents may however proceed against the applicant according to law if they so desire. However at the same time we clarify that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings as it is entirely left to the discretion of the disciplinary authority.

The application is allowed to the extent indicated above, but in the circumstances, we make no order as to costs.



30/-

( P. H. JOSHI )  
JUDICIAL MEMBER

30/-

( P. H. TRIVEDI )  
VICE CHAIRMAN

*[Signature]*  
24/5/88  
ADVOCATE

True Copy  
*[Signature]*  
Advocate

Western Railway.

T.P. Krasnak  
By. CE (S&Q)/Kata

Office of the  
By. CE (S&Q)/Kata

Dated 21.8.81.

B.O. No. NAO/E 783/1

My dear Sir,

Sub: Representation of Shri T.A. Pawadai dated 27.12.80  
(copy to this office).

Ref: His representation dated 27.12.80 and TA No. 1293 of  
1986.

Shri T.A. Pawadai who is now retired had filed a case in  
CAT Ahmedabad vide TA No. 1293 and RCC No. 356 of 1984, which  
was decided in his favour. He has accordingly applied for the  
arrears of pay etc. copy of his application is enclosed for  
ready reference. You are requested to advise this office whether  
the decision of CAT, Ahmedabad submitted by T.A. Pawadai stands good and  
no appeal or review has been filed against the said judgment.  
It may also be advised whether Shri T.A. Pawadai may be given the  
benefit of P.W. Gr. III and his reversion as P.W. Pistry has been  
set aside.

Shri T.A. Pawadai was transferred from Raktat as P.W. Gr. III  
and was reverted as P.W. Pistry for two years on the basis of  
MP No. RAI/E 308/1/1 dated 28.8.82 received from your office.

Early action in the matter will highly be appreciated.

With best wishes,

Yours sincerely,

24/-

( T.P. Krasnak )

BA 1

Shri B. P. Bafna,  
By. CE (Construction).  
Ahmedabad (Gens.).

True Copy  
*Rup Rupa*

Advocate



Western Railway

N/3  
Office of the  
Dy. Chief Engineer (SAC),  
Kota Jn.  
Date 16-03-92

No. MRL/K.789/1

The C.E. (C) AM.

Sub: Representation of Shri T.A. Pawadai  
dated 27-12-90;

Ref: This office D.O. letter of even No.  
dated 21-8-91;

-----

Your attention is invited to this office D.O. letter quoted above (copy enclosed for ready reference) to advise this office whether the decision of C A T - ADI submitted by T.A. Pawadai stands good and no appeal or review has been filed against the said judgement.

An early action in the matter is requested as Shri T.A. Pawadai is pressing to finalise the issue.

Kindly advise early in the matter.

Encl: One;

Dy. C.E. (SAC) KTT

115/•

True Copy

*Ram. B. Singh*  
Advocate



Western Railway

A/4

22

No.RJT/E/558/84/221

C.E.(C)'s Office,  
Ahmedabad

Dated: 23 -3-1992

Dy.CE(S&C) KTT

Sub: Representation of Shri T.A. Pawada  
dated 27-12-90

Ref: Your DO letter No.NRD/E 789/1 of  
21-8-91 and letter dt. 16-3-92  
-----

With reference to your above it is advised  
that no appeal/review has been filed by this  
organisation against the Judgement of CAT-ADI  
submitted by Shri T.A.Pawada. According to  
the judgement of CAT, Shri Pawada is entitled  
the benefit of Grade of PW I Gr.III.

Further action in this matter may please  
be taken at yours as Shri Pawada has retired  
when he was serving under your control.

True Copy

*Ram Kishore*  
Advocate

*X. Kishore*  
for Chief Engineer (Con.)  
Ahmedabad-2

Western Railway

Office of the  
By. Chief Engineer (SIC),  
Kota Jn.  
Date 13-04-92.

OFFICE ORDER NO. 606.

Sub: Promotion, Transfer & Reversion of  
class III staff - P.Ws.

Ref: D.D. of D.C.'s Order No. 514 dtd. 12-1-85.

.....

Shri T.A. Pawadai, B3 P.W. grade III scale H. 1400-2300 (BP) (Retired on 31-1-88) was under going penalty for two years reversion from P.W. grade III scale 425-750 (KS) to P.W. grade scale H. 380-560 (H) vide M.I.P. No. 101/2/300/V/1 dtd. 6-8-88 for the period from 12-10-82 to 11-10-84.

The penalty of two years reversion has been set aside by Honorable C.A.T. - JAI in his judgement pronounced on 20-5-88 in T.A. No. 1293/86 while deciding the application of Shri T.A. Pawadai filed in CAT - JAI against the penalty of reversion.

The judgement stands good as no appeal/review/ALP has been filed by Western Railway against the judgement, hence penalty of two years reversion from 12-10-82 to 11-10-84 is treated as cancelled.

*Issued by C.E.C. as per order No. 148*

By *201/E 5381* *2/11*

By. Chief Engineer (SIC),  
Western Railway, KOTA Jn.  
Date 13-04-92.

No. MWY/4830/1.

- Copy to : 1) CIO (SIC) CCE for information please.  
2) AAO (SIC) Kota -do-  
3) DDI (D) BRC / LAD -BRC / CS (C) JAI

By. Chief Engineer (SIC),  
Western Railway, KOTA Jn.

KV/

True Copy

*P. B. L. Singh*  
Advocate

WESTERN RAILWAY

OFFICE OF THE  
MR. CHIEF ENGINEER (C),  
KOTA JNS

OFFICE ORDER No. 534

Dated: 25 June, 1992

**Subj: - Fixation of Pay - IVth Pay Commission**

The penalty of two years reversion has been set aside by honourable CAT-ADI in judgment of T.A. Pawadai, P.M. Cr. III Scale No. 425-700 (RS) who was retired on 31.1.1988. Accordingly his pay in revised Scale of Pay No. 1400-200 (RP), as certified by AAO (S&C) Kota is refixed as under in terms of Railway Board's letter No. PG-IV-86/IMP/Schedule/1 dated 24.9.86 as under:-

Scale		Pay as on 1.1.86		Dt. of increment	Pay after grant of increment
Old	Revised	Old	Revised		
425-700	1400-2000	680/-	2000/-	1.10.86	2090/-
		One increment which were with held for		1.10.86	2130/-
		Two years. i.e. 1.10.84 & 1.10.85		1.10.87	2200/-

By: Chief Engineer (C).  
KOTA JNS

No: L773/1

Dated: 25 June, 1992

Copy to:-

CAO (C) COE

AAO (S&C) KTT.

ENR (K) BRC, DAO-BRC - for information. Fixation has been done on the basis of old record available as Service sheet is not traceable in this office.

CE (C) ADI for information.

MR. CH (C) KTT

True Copy

Advocate



Dy. CH(KCP)'s Office  
Kota

Dt. 26.8.1992.

Office order No. 540.

Sub: Refixation of pay - IVth pay commission.

Ref: AD(S&C)/KTI letter No. S&C/KTI/E 774/Vol. IV  
/E/55 dated 12.8.1992.

-1-

Due to Judgement of CAT-ADI, the pay of Shri T. A. Pawar ex. WPI Gr. III scale Rs. 425-700/1400-2300(RP) is refixed w.e.f 1.1.1986 as under :- As regards expenditure of pay and arrears of pay and allowance, gratuity etc. is to be charged expenditure with the approval of CAO(C) COG. The approval of the HOD will be obtained and after that the Suppl. bill be submitted to your office for arranging payment to employee in the meantime. You are requested to kindly vet this pay fixation. As regards payment without service sheet, a copy of Sr. DAO-BRC's letter No. BRC/E 789/6/1486 dated 19.8.92 is enclosed for ready reference. AD(S&C)/KTI is requested the fixation card may please be vetted as early as possible so that further action can be taken.

Scale	Pay as on 1.1.1986		Date of increment.	Pay after grant of increment.
Old Revised	Old	Revised		
425-700	1400 2300 (RP).	700/- 2050/-	1.10.1986 1.10.87	Rs. 2100/- Rs. 2150/-

DA : 1. Fixation cards in  
dupl. letter.

2. P. case page 62.

Dy. CH(C)RTM(II) @ KOTA.

No. E 773/1

Copy to :-

CAO(C) COG. CH(C) ADI, AD(S&C)/Kota.  
DGM(E), Sr. DAO-BRC for inf.

Refixation has been done in supersession to this office order No. 534 dated 25.6.92 on the basis of old record available as service sheet not traceable in the office of DGM(E) & Sr. DAO-BRC's office.

*Chambers*  
Dy. CH(C)(ID)RTM @ KOTA.

True Copy

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMED ABAD

~~CA/TA/MA/RA/C.A.~~ No.

555 / 93 in 04/51/571/93

MR. T. A. Pawador  
APPLICANT(S)

MR. B.B. GOGIN  
COUNSEL

VERSUS

U.O.I. 2 Des.

RESPONDENT (S)

COUNSEL

DATE	Officer Report	Orders
	<p>Condonation of Delay</p>	<p>D/O 14-12-93</p>

28/2

27

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD

11/10/93 Dy. Registrar C.A.T.(I)  
A'bad Bench

MISCELLANEOUS APPLICATION NO: 555 /93  
IN ORIGINAL APPLICATION NO: /93

Shri T.A. Pawadai,  
Hindu, Adult, Aged about 62 years,  
Occupation: Retd. Rly. servant  
Address: C/o A.Z. Thangavel,  
Cleaner,  
Railway Quarter No. 148/E,  
Bhavnagar Colony,  
SURENDRANAGAR

:: APPLICANT

Versus

- 1) Union of India,  
Owning & Representing  
Western Railway  
Through:  
General Manager,  
Western Railway,  
Churchgate,  
BOMBAY - 400 020
- 2) Dy. Chief Engineer (Construction),  
Western Railway,  
Kota
- 3) Divisional Railway Manager,  
Western Railway,  
Baroda Division,  
Pratapnagar,  
BARODA

:: RESPONDENTS

APPLICATION FOR CONDONATION OF DELAY IN FILING  
ORIGINAL APPLICATION

The applicant respectfully begs to submit as  
under:-

He has filed a petition today for direction  
to the Respondents to pay the difference of salary  
and allowance as a result of and on the strength of

of the Office Order No.606 dated 13.4.1992 issued by the Dy.Chief Engineer(S&C), Western Railway Kota. The applicant has claimed in this petition the release of the monetary benefits on account of the said order available to the petitioner along with revision in the pension and other pensionary benefits. The Office order dated 13.4.1992 issued by the Dy. Chief Engineer(S&C)Kota was received by the Applicant towards the end of April 1992. The applicant was therefore waiting for a reasonable time with the hope that he will get the benefits of the said order.

2. The applicant submits that there has been no further action in payments of his dues because of the revision in the pay and to refix his pension and other pensionary benefits as available to him in pursuance of the office order dated 13.4.1992. The applicant has also given a notice through his advocate to all the Respondents on 13.9.1993, to which there is no response so far. Copy of the notice dated 13.9.1993 given by his Advocate is also annexed along with its acknowledgements.

3. The applicant submits considering the fact that the office order was issued on 13.4.1992, he was required to file this petition on or before 13.4.1993, as such there is delay of about 6 months. However, the applicant



submits that blamable for the ~~fact~~ the same and it was because of the delay on the part of the respondents in not making the payment based on their own orders dated 13.4.1992, which is still in force.


4. The applicant submits that even though the pay was refixed in April 1992, his pension has not been refixed on the basis of the revision of pay. He is still receiving pension at the old rate. The Applicant submits that he was required to be paid pension at a higher rate on every first of the months. However he is still paid at a lower rate. Since he is not being paid his pension at the due rate on every first of the months, the Applicant submits that the cause of action in this case is an accruing one and hence his honourable Tribunal can entertain the ~~case~~ OA Filed by this applicant.

5. The applicant submits that if his petition is admitted and decided on merits the interests of third party will not be affected. However, if it is not done the applicant alone will suffer irreparable damage at his present age of 60 plus.

6. The Applicant therefore prays that his petition may kindly be admitted and decided on merits.

Rajkot/Ahmedabad

Date: 06-10-93



VERIFICATION

I, T.A. Pawadai, S/o ARV MUGAM PAWADE

aged about 62 years working as: Retired Rly. employee




resident of Surendranagar do hereby verify that the contents of paras 1 to 6 are true on legal advice and I have not suppressed any material fact.

Rajkot/Ahmedabad

Date: 26-10-93

  
(APPLICANT)

  
(ADVOCATE)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

MISCELLANEOUS APPLICATION NO: /93

IN ORIGINAL APPLICATION NO: /93

Shri T.A.Pawadai,  
C/o A.T.Thangavel,  
Cleaner,  
Rly.Qr.No.148/E,  
SURENDRAGAR

:: APPLICANT

V/s

Union of India & 2 others

:: RESPONDENTS

AFFIDAVIT

I, T.A.Pawadai, son of SHRI ARUMUGAM PAWADAI

Hindu, Adult, Aged about 62 years, Occupation: Retired  
Railway Servant, resident of Surendranagar, do here-  
by declare on solemn affirmation that whatever is stated  
in the Miscellaneous Application praying condonation of  
delay in filing the original application is true and  
correct to the best of my knowledge and belief.

I declare the above on oath.

Rajkot

Date: 6/10/93

  
(DEPONENT)


Identified by explained.



( ADVOCATE )

Solemnly affirmed before me by  
Shri...T.A. Pawadai son of Arumugam Pawadai  
who is identified by Advocate  
Shri...B.B. Chugh.  
who is known to me.

Rajkot,  
Dt. 6/11/93

  
Clerk of the Court  
Civil Judge, (S. D.)  
RAJKOT.

Submitted.

Application found to be in order.

May be placed before Honorable Bench for  
necessary orders.

cc: cc: [unclear]  
12/10/93

cc: [unclear]  
12-10-93

SO (1)

cc: [unclear]

12-10-93  
DE (1)

12-10-93

12-10-93

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12-10-93



DCP14

✓  
Mr N 3 Shende  
Copy served  
as per  
h.w. by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD  
O. A. NO.597 OF 1993

T.A.Pawadai ..... ... Applicant  
V/s  
Union of India & Ors..... ... Respondents

REPLY ON BEHALF OF  
RESPONDENT NO. 3  
OPPOSING ADMISSION

C.I.  
Read by  
my n.  
4-4-94

The respondent No.3 humbly begs to file a  
reply in response to the Notice pending admission issued  
by the Hon'ble Tribunal opposing admission as under:-

1. This reply is filed only for the purpose of  
opposing admission. The respondents reserve their right  
to file additional/further reply as and when necessary.
  2. Contents of paras 1 to 3 need no reply.
  3. Regarding para 4.1, the respondents rely on  
the service record of the applicant as and when necessary.
- It is not disputed that the applicant who was working as  
permanent Way Inspector Grade III in the scale of  
Rs.425-700(R) was reverted to the post of Permanent Way

Mistry for a period of two years vide NIP dated 26.8.82.

It is not disputed that the applicant filed Civil Suit No.558/84 challenging the said order of penalty in the said suit and the said suit was transferred to this Tribunal on establishment of the Central Administrative Tribunal under the Administrative Tribunals Act, 1985 and was registered as T.A.No.1293/

86. The said T.A.No.1293/86 has been decided by the Tribunal on 20.5.88 as per judgement at Annexure A/1 with the application. The respondents rely on the said judgement.

4. <sup>143</sup> Regarding para 4.2, it is stated that the applicant has retired from Railway Service on attaining the age of superannuation on 30.1.88 while working under the Deputy Chief Engineer(C), Kota before the decision in T.A.NO.1293/86. As regards letters dated 21.8.91, 16.3.92 & 23.3.92 the respondents rely on the original letters. It is not disputed that the Chief Engineer(C), Ahmedabad informed Deputy CE(S&C), Kota vide letter dated 23.3.92(Annexure A/4) that no appeal/review has been filed by the Organisation against judgement of CAT in T.A.No.1293/86 and according to the said judgement the applicant is entitled to the benefit of Grade of PWI Grade III and that further action may be taken at his end as the applicant has retired when he was



: 3 :

serving under him.

5. Contents of para 4.<sup>4</sup>~~3~~ need no reply. The respondents rely on the letter dated 13.4.92 at Annexure A/5

6. Regarding para 4.5, it is submitted that after the issue of letter dated 13.4.92 the Office of the Deputy CE(C), Kota, issued Office Order dated 25.6.92 on the subject of fixation of pay of the applicant after accepting the recommendations of the IVth Pay Commission fixing the pay of the applicant in the revised scale of Rs.1400-2300(RP) with effect from 1.1.86 and further fixing the pay from the date of his increment viz., 1.10.86, 1.10.86 and 1.10.87 (as per Annexure A/6 with the application). It is submitted that the Office of Deputy CE(C), Kota, thereafter issued Office Order No.540/, dated 26.8.92 (Annexure A/7 with the application) in reference to letter dated 12.8.92 re-fixing the pay of the applicant from 1.1.86, 1.10.86 & 1.10.87. The pay of the applicant on 1.10.87 was re-fixed at Rs.2150/- and from 1.10.86 it was re-fixed at Rs.2100/- per month. The said pay was fixed from the respective date after grant of increment. It has been clearly stipulated in the said Office Order, dated 26.8.92 that re-fixation has been done in supersession to the Office Order No.534, dated 25.6.92 issued by the said Office on the basis of old record available since service-sheet of the applicant was not traceable in the Office of DRM(E) & Senior DAO, Baroda's



Office . The respondents rely on the said Memorandum/  
Office Order dated 26.8.92. It is denied that the  
respondents are dealing with the matter very casually.  
The applicant was working at Rajkot when the order of  
penalty was imposed on him. Thereafter he was transferred  
to work at Kota. The applicant has retired from Kota.  
The service-sheet of the applicant was not traceable  
when the orders were issued in 1992. Even to-day the  
service-sheet of the applicant is not traceable. When the  
Divisional Office, Baroda, learnt about the present case,  
the DRM(E), Baroda, wrote a letter dated 8.2.94 to  
Deputy CE(Construction), Western Railway, Kota stating  
inter alia that the subject matter filed by the applicant  
in the Central Administrative Tribunal, Ahmedabad, ~~isxx~~  
and he is a party respondent No.2 to the said  
application and the dispute raised in the said application  
O.A.NO.597/93 pertains to his Department with a request  
to furnish parawise remarks by return of post for the  
purpose of filing reply. Thereafter, DRM(E)BRC wrote  
a letter dated 28.2.94 to the Chief Engineer(C), Ahmedabad  
requesting him to send a xerox copy of the applicant's  
service sheet by return. In the mean time Executive  
Engineer(S&C), Kota, wrote a letter dated 15.2.94 to the  
Chief Administrative Officer(C), Churchgate in reference  
to the Assistant Accounts Officer(S&C), Kota's letter  
dated 28.8.92 stating inter alia that the said letter

:5 :

was sent to his Office for information and necessary action with a request to give approval for payment of arrears to the applicant as per CAT, Ahmedabad's judgement and for according sanction, that the service sheet is not traceable in the Office of DRM(E) and Senior DAO, Baroda, which was sent along with settlement case with a request to advise approval of the competent authority so that the payment may be arranged to the applicant. A copy of the said letter was also endorsed to DRM(E), Baroda, stating that on receipt of the approval for pay of arrears from CAO(C), CCG the refixation of pay and the revised pension of the applicant will be finalised accordingly. Thereupon ~~DR~~ DRM(E) wrote a letter dated .3.1994 to XEN(S&C), Kota in reference to the interim orders of the Hon'ble Tribunal, and intimating him the date of hearing viz. 8.3.94. Simultaneously, DRM(E), BRC, wrote a letter dated 4.3.94 to the Senior DAO, Baroda, in reference to PPO dated 24.5.90 stating inter alia that the applicant was working as PWI under Deputy CE(S&C), Kota, who retired on 31.1.88 and settled his dues in Baroda Division, was undergoing penalty of reversion from 12.10.82 to 11.10.84, that the penalty was set aside as per judgement by CAT Ahmedabad and as per applicant's fixation revised pension papers are prepared and enclosed for revising applicant's pension and

payment of difference of DCRG immediately to the applicant with a request to issue cheque immediately for arrears of difference of DCRG & advise particulars to the Divisional Office immediately. It is submitted that the Divisional Office, Baroda, has already prepared and issued / a cheque for Rs.49<sup>3</sup>7.00 (Rupees four thousand nine hundred <sup>thirty</sup> ~~fifty~~seven only) in favour of the applicant towards payment of arrears payable to him on account of fixation of the pay of the applicant in the revised pay-scale with effect from 1.1.86 as per Office Order dated 26.8.92 at Annexure A/7 with the application. It is submitted that the earlier Office Order No.534, dated 25.6.92 has been superseded by the Kota Office and the Office Order dated 26.8.92 is the latest order on which action has been taken by the respondent No.3. It is submitted that the Divisional Office, Baroda, has already issued revised pension papers to the Accounts Office with a request to arrange payment of difference of DCRG to the applicant. The applicant is entitled to Rs.2175/- on account of difference of DCRG due to revision of his pay. Action <sup>taken</sup> for arranging payment of the said difference is also ~~by~~ taken by the respondents. It is submitted that there is no delay on the part of respondent No.3. The respondent No.3 has taken immediate action on receipt of information regarding filing of the application by the applicant and receipt of letters from Kota. The applicant is not



: 7 :

entitled to claim 15% interest on the said amount payable to the applicant from the respondents. It is denied that the applicant is entitled to said interest from 20.5.88. It is denied that there is any delaying tactics between the respondents in finalising the issues. It may be stated that the application T.A.No.1293/86 was allowed only to the extent indicated in the said judgement.

7. Contents of para 4.6 are not true and are denied. It is denied that the applicant's pay was correctly fixed at Rs.2150/- on 1.10.86 vide Annexure A/6. It is denied that the applicant was required to be heard before fixing his pay in the revised pay-scale by order dated 26.8.92. The respondents found that the pay of the applicant was not correctly fixed in the revised pay-scale with effect from 1.1.1986 while issuing order dated 25.6.92 and hence order dated 26.8.92 (Annexure A/7) has been issued in supersession of the order dated 25.6.92. It is denied that the said Annexure A/7 violates principles of natural justice or the rules of pay fixation. The averments are without any merit.

8. Contents of para 5 are not true and are not admitted. None of the grounds of challenge taken by the applicant exists. As stated herein above, applicant's service sheet was not traceable and is till not traced in spite of efforts by the respondent No.3's

Office . The applicant is not entitled to pay fixation made by Annexure A/6 and hence revised orders are already issued by Annexure A/7. The applicant's pension papers are also revised and the difference payable to the applicant is also paid.

9. Contents of paras 6 & 7 need no reply. The applicant is not entitled to any of the reliefs claimed in para 8 of the application.

10. Contents of paras 9 to 12 need no reply.

In view of what is stated above, the application may be dismissed with costs.


VERIFICATION.

I, B.N.Meena, age about 36 years, son of Shri R.N.Meena, working as Senior Divisional Personnel Officer, Western Railway, Baroda and residing at Baroda do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Baroda

Dated: 21.3.1994

762 4494

  
Senior Divisional Personnel Officer,  
Western Railway, Baroda.

