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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 492 OF 1993

Cuttack this the 20th day of September 1996.

INDRAMANI DAS	APPLICANT
		VRS.	
UNION OF INDIA & OTHERS.	RESPONDENTS

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

N. SAHU
(N. SAHU)
MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 492 OF 1993

Cuttack this the 20th day of September, 1996

CORAM:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

...

SHRI INDRAMANI DAS,
Son of late Chandramani Das,
Retired Master Craftsman, S.E. Railway,
Bhadrak, At-Patharadi, P.O. Charampa,
Dist. Balasore-756 101.

... Applicant

By the Applicant : M/s. S.K. Mohanty, S.P. Mohanty, Advocates.

Versus-

1. Union of India represented by the Chief General Manager, S.E. Rly, Garden Reach, Calcutta.
2. Senior Divisional Personnel Officer, S.E. Rly. Khurda.
3. Divisional Accounts Officer, S.E. Rly. Khurda.
4. Divisional Rly. Manager, S.E. Rly. Khurda.

... Respondents

By the Respondents :- M/s. Bijoy Pal, D.N. Ghosh,, Standing Counsel (Railways).

O R D E R

MR. N. SAHU, MEMBER (ADMN.): The applicant joined the Railway Service on 19-8-1953 and he superannuated on 31-8-1991 as a Master Craftsman (M.C.M.). The grievance of the applicant is with regard to fixation of pay in the cadre

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of M.C.M. to which he was promoted by order dated 26.9.1986 with effect from 1.1.1984 in the pre-revised scale of Rs.425-640/-.. The promotion order dated 26.9.1986 states that the applicant along with others are eligible to get the benefit of pay fixation as Master Craftsman under Rule 2018-B FR-22(c), R-II "on proforma basis from 1.1.1984 and current payment from 1.1.1986". Prior to his promotion, as Fitter Gr.I, the applicant was drawing Rs.1500 i.e. Rs.1470+increment on 1.8.1986. In the cadre of M.C.M. the applicant's pay was fixed at Rs.1480/- with effect from 1.1.1986. The brief point made by the applicant is that his initial pay in the cadre of M.C.M. should have been fixed at Rs.1520 on 1.1.1986, i.e. he was getting Rs.1470/- as Fitter Gr.I and one increment of Rs.30 has to be added which works out to Rs.1500 and the next stage in the scale of pay of MCM is Rs.1400-40-1800-EB-50-2300 prescribed for M.C.M. is Rs.1520 instead of Rs.1480/-. The applicant has given a working of his pay in the cadre of MCM with effect from 1.1.1986 till the date of retirement as under :

1.1.1986	..	Rs.1520/-
1.1.1987	..	Rs.1520 + Rs.40 (increment) = Rs.1560
1.1.1988	..	Rs.1560 + Rs.40 (increment) = Rs.1600
1.1.1989	..	Rs.1600 + Rs.40 (increment) = Rs.1640
1.1.1990	..	Rs.1640 + Rs.40 (increment) = Rs.1680
1.1.1991	..	Rs.1680 + Rs.40 (increment) = Rs.1720

Since the applicant received the order of promotion on 26.9.1986, he should have been asked to opt for promotion with effect from 1.1.1986, or after 1.8.1986,

the date in which his increment in the Fitter's trade was due. Such an option was not called for, according to his averments.

2. The objections against the above are spelt out in the counter-affidavit as under :

3. The first objection is on the ground of limitation. The application, it is stated was filed on 10.9.1993, after lapse of seven years. The applicant got order of promotion by Annexure-3 dated 26.9.1986. To this the applicant countered by saying that his representation was rejected on 12.10.1992 after considering the same on merits. The Respondents state that the applicant had not submitted any representation till he retired on 31.8.1991 and the cause of action having arisen on 1.1.1986, he should have filed representation within a reasonable time. "The final order" under section 21, Sub Clause (1) (A) was made on 12.10.1992. This application having been filed within one year of the same, it is not hit by limitation clause. Respondents have entertained the representation although it was filed after a delay of six years and they dealt with it on merits and therefore, they cannot now be heard to say that the representation was filed late. The st

4. The stand of the Respondents on the fixation of pay is as follows :

"3. xx xx xx. As the applicant was in the scale of Rs.330-12-500-EB-560/- on pay of Rs.464 per month his pay according to Fourth Pay Commission report was fixed

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 in the corresponding scale of Rs.1320-30-1560-EB-40-2040 at Rs.1470/- per month from 1.1.1986 in view of his option dated 14.10.1986 given by him. The applicant had opted for fixation of his pay according to the Fourth Pay Commission Report from 1.1.1986. Thus he received his salary benefit as per his option. The benefit of promotion under Estt. Serial No.48 of 1986 from 1.1.1984 having been received later on, the applicant's pay was again re-fixed from 1.1.1984 according to the Fourth Pay Commission Report and same was certified by associate accounts, i.e. Divisional Accounts Officer, Khurda Road.

It may be stated that the basic pay per month of the applicant in the scale of Rs.380-560 as on 1.1.1984 being Rs.440 his pay on 1.1.1984 in the scale of Rs.425-640 was fixed at Rs.455/- per month under rule 2018-B(FR 22-C) under Annexure-R/2. This pay progressed to Rs.470/- from 1.4.1985 (there was deference of three months for stoppage of increment, NCE dues to detachment of coach No. SE 1828 GSR by 207 Up at BTV on 9.11.1983) and again to Rs.485 on 1.1.1986. According to the Fourth Pay Commission scales his pay on 1.1.1986 was fixed at Rs.1480 in the corresponding scale of Rs.1400-2300/-. In the same process his pay progressed upto Rs.1680 on 1.1.1991 and he retired on 1.9.1991. The retirement benefits were accordingly given."

5. The fact remains that on the date he received the promotion order on 26.9.1986, he was drawing Rs.1500 as on 1.8.1986 in the Fitter Grade I scale. This scale was revised on 1.1.1986 to Rs.1320-30-1560-EB-40-2040/-. When the order of promotion came, his pay was Rs.1500 and no fixation should have brought it down to an amount lower than this figure on 1.8.1986. On this simple proposition the entire case is based. The applicant

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was a Fitter Grade-I in the scale of Rs.380-560 as on 1.1.1986. At that time he was not given any promotion as Master Craftsman. He opted for fixation of pay according to the Fourth Pay Commission in that scale of Rs.380-560/-. His pay was fixed in the corresponding revised scale of Rs.1320-2040 at Rs.1470/- per month with effect from 1.1.1986. His date of increment being 1.8.1986, he was drawing Rs.1500 on 1.8.1986. He was retrospectively promoted as Master Craftsman with effect from 1.1.1984 vide Annexure-3 to the amendment petition in the scale of Rs.425-640/-. Accordingly, ^{his pay was fixed} at Rs.455/- as per Rule 2018 (b) FR-22 (c). The revised corresponding scale of pay of Rs.425 - 640/- is 1400-2300 as on 1.1.1986. This was at Rs.1480/-. The above reckoning is in order, but the respondents overlooked the following circular of the Railway Board, which is as under :

" On appointment from one post to another post involving assumption of higher duties and responsibilities of greater importance:

Where a Railway servant holding a post in substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, to an other post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment subject to the condition that amount to be added to the pay in lower post before fixing the pay in higher post should not be less than Rs.25/- at the stage at which such pay has accrued.

Where a Railway servant immediately before his promotion or appointment to a higher post is drawing pay at the maximum of the time scale of the lower post, his pay in the time scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by an amount equal to the last increment in the time scale of the lower post."

6. There is no dispute that the appointment involves assumption of higher duties and responsibilities of greater importance. The order of promotion was dated 26.9.1986. On that date, the applicant was drawing Rs.1500/- . It is made clear in the appointment order itself that they are eligible to get the benefits of fixation of pay as Master Craftsman under Rule 2018 (b) FR 22 (C) R-II on proforma basis from 1.1.1984 and current payment from 1.1.1986. Therefore, the respondents cannot violate this important rule and make his pay lower than what he was actually getting on 1.8.1986. I, therefore, hold that the calculation given by the applicant at page 2 of this order cannot be faulted. The arrears of pay shall be paid to the applicant as per the working-sheet filed by him, within a period of three months from the date of receipt of a copy of this order.

7. With regard to the claim for payment of the balance of Provident Fund, the applicant states that Annexure-R/3 (A) to the counter showing detailed Provident Fund accumulation does not include Provident Fund

recoveries from May, 1959 to January, 1961 during which period the applicant worked at Bhadrak Carriage Shed which was under the then Divisional Mechanical Engineer, Waltaik. The applicant disputes the total amount of (eleven times) temporary advances to the tune of Rs.17,100 and non-refundable advance (nine times) to the tune of Rs.23,250/-. With regard to temporary advances, they have been fully recovered by the end of June, 1991. With regard to non-refundable advances, the applicant states that it is not nine times but seven times and the amount involved is not Rs.23,250/- but Rs.18,350/-. He also says that the voluntary deposits of Rs.1000/- deducted during March to April, 1990 and Rs.200/- from May, 1990 to June, 1991 were not added to his Provident Fund accumulations. These are matters involving verification of claims. The applicant shall make a fresh representation on this point to the Divisional Accounts Officer, S.E.Railway, Khurda, Respondent No.3 within three weeks from the receipt of a copy of this order and Respondent No.3 shall afford an opportunity of hearing to the applicant and reconcile his claims with his Provident Fund accounts. He shall pass a reasoned order on his representation item by item within three months from the date of filing of the representation. If still the applicant is aggrieved, he can move this Court.

7. Thus the Original Application is disposed of as above. There would be no order as to costs.

N. Sahu,
(N. SAHU)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//