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O.A.No.228 of 2000

ORDER DATED: 15-03-2004.

This Original Application has been filed by Shri M.K.Swain, ventilating his grievance that on his transfer from Bilaspur Division to Khurda Division at his own request, his pay in the scale of Junior Parcel Clerk has not been fixed in terms of the Railway Board's Estt.Sl.No.9/97. He has, therefore, prayed for a direction to be issued to the Respondents to protect his pay at the stage of Rs.3710/- from February, 1996 and for the delay in effecting this pay fixation, he should be paid 10% interest on the arrears.

The admitted fact of this case is that the Applicant while continuing as Sr.Parcel Clerk in Bilaspur Division sought for transfer to Khurda Division in the lower grade of Jr.Parcel Clerk, under the usual terms and conditions. According to the applicant, he was entitled to pay protection which he was drawing in the higher scale of pay of Rs.3200-4900/- at the stage of Rs.3710/-, on his reversion as Jr.Parcel Clerk in the scale of Rs.3050-4590/- in terms of the clarification issued by the Office of the CPO dated 17.11.1997 containing clarification issued by the Railway Board in their letter No.F(E)II/91/Misc./2(Pt) dated 24.02.1995.

The Respondents by filing counter have opposed this application. Learned counsel for the Respondents drawing our notice to Railway Board's letter No.F(E)II/91/Misc./2 dated 20.8.1999 has stated

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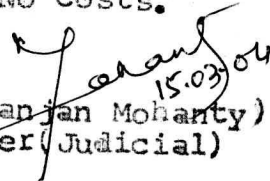
that pay protection is available only if a transferee was transferred after completion of minimum period of 24 months in that higher post. But in the instant case the applicant had sought for his transfer within three months of his promotion to higher post. In the circumstances, he was not entitled to pay protection. We have perused the letter of the Railway Board dated 20.8.1999 and also CPO letter dated 17.11.1997. It is found that the stipulation has been made in the Railway Board's letter/circular dated 20.8.1999 that a minimum period of 24 months in the higher scale is called for in the matter of pay protection. However, it has been stated that in case there is no stage in the lower grade equal to the pay being drawn by the employee in the higher post his post in the lower grade will be fixed at the stage next below the pay being drawn in the higher post and the difference will be paid as personal pay to be absorbed in future increments. On perusal of the counter filed by the Respondents and the submissions made by the learned counsel for the Respondents, we are not clear whether the pay of the applicant was fixed in terms of Railway Board's Circular dated 20.8.1999 nor the learned counsel for the applicant has been able to point out as to how his pay has been fixed nor the letter of reallotment to Khurda Division showing the manner of pay fixation was also placed before us.


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In the circumstances, we are unable to pass any order with regard to the relief sought for by the Applicant. However, in the interest of ~~all~~ fairness and justice, we call upon the Respondents to comply with the instructions of the Railway Board as contained in letter dated 20.9.1999 (Annexure-R/1) and to review the pay fixed by them in respect of the applicant on his joining the post of Jr. Parcel Clerk at Khurda Division on transfer from Bilaspur. The necessary review of the matter should be carried out within a period of 120 days from the date of receipt of a copy of this order.

In the result, this Original Application is disposed of with the observations and directions made above. No costs.


(Manoranjan Mohanty)
Member (Judicial)


(B.N. Som)
Vice-Chairman