

15

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 138 of 2005
Cuttack, this the 28th day of September, 2007.

Jagadish Prasad Patra ... Applicant
Versus
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 CAT or not? ✓

Tarsem Lal
(TARSEM LAL)
MEMBER(ADMN.)

DR.K.B.S.RAJAN
(DR.K.B.S.RAJAN)
MEMBER(JUDL.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 138 of 2005
Cuttack, this the 28th day of September, 2007.

C O R A M:

THE HON'BLE **DR.K.B.S.RAJAN**, MEMBER (J)
A n d
THE HON'BLE **SHRI TARSEM LAL**, MEMBER (A)

Jagadish Prasad Patra aged about 38 years, Son of Shri Akrura Patra, at present working as Deputy Chief Controller, East Coast Railway (Head Quartes), At/PO. Chandrasekharpur, Bhubaneswar, Dist. Khurda.

..... Applicant.

By legal practitioner: M/s.Ashok Kumar Mohapatra,
Bhabani Prasad Rath,
Advocates.

-Versus-

1. Union of India service through General Manager, South Eastern Railway, At/Po.Garden Reach, Kolkata-43 (West Bengal).
2. Chief Personnel Officer, South Eastern Railway, At/Po.Garden Reach, Kolkata-43 (West Bengal).
3. Divisional Personnel Officer, South Eastern Railway, Adra, At/Po.Adra, Dist. Purulia (West Bengal).
4. General Manager, East Coast Railway, At/Po.Chandrasekharpur, Dist. Khurda.
5. Chief Personnel Officer, East Coast Railway, At/Po.Chandrasekharpur, Dist. Khurda.

... Respondents.

By legal practitioner: Mr. R.C.Rath, ASC

O R D E RDR.K.B.S.RAJAN, MEMBER(J):

This matter would not have been allowed to be dragged by filing of counter and rejoinder, if only the respondents had been more attentive in keeping the Railway Board's Circulars intact. The case of the applicant is that his pay is lower than his juniors on account of an anomaly inasmuch as his promotion effected prior to the revision of pay scale resulted in his drawing 30% of running allowance at the pre-revised scale, while his junior's promotion effected posterior to the introduction of revised pay scale resulted in his drawing 30% of running allowance at the revised pay scale. This anomaly when pointed out by the applicant, was not rectified but the case of the applicant was rejected, vide Annexure 3 letter dated

10-06-2003. While so, on 20-07-2004 the Railway Board had issued R.B.E. No. 158/2004 which reads as under:-

“subject: Anomaly in fixation of pay of Loco Supervisory staff appointed prior to 1.1.1996 with reference to their juniors appointed after 1.1.1996 and drawing more pay than the seniors.

(NO.PC-V/2002/1/6/2 dated 20.7.2004

It has come to the notice of the Board that staff appointed prior to 1.1.1996 as Loco Running Supervisors in the pre-revised pay scales, whose pay has been fixed in the replacement scales for Loco Running Supervisors under the RSRP Rules, 1997, are drawing less pay than their juniors appointed to the Supervisory post after 1.1.1996. The anomaly has arisen due to the fact that the benefit of element of Running allowance granted at the time of promotion of running staff to a stationary post has been granted to the junior in the revised scale, whereas, the same benefit granted to the senior is of lesser value as the same has been calculated on pre-revised pay scale.

It has been decided that the anomaly be resolved by granting stepping up of pay to the seniors at par with the juniors in terms of Note 9 below Rule 7 of RSRP Rules, 1997.

The benefit of stepping up of pay will be subject to the following conditions:-

(a) The stepping up of pay will be allowed to running staff only appointed as loco supervisors in whose cases 30% of basic pay is taken as pay element in the running allowance. The stepping up of pay will not be admissible to the non-running staff of Mechanical Department

appointed as Loco running supervisors as in their cases the question of pay element in the running allowance does not arise;

- (b) If even in the lower post, revised or pre-revised, the junior was drawing more pay than the senior by virtue of advance increments granted to him or otherwise, stepping up will not be permissible;
- (c) Stepping up will be allowed only once, the pay so fixed after stepping up will remain unchanged;
- (d) The next increment will be allowed, if due, on completion of the requisite qualifying service with effect from the date of refixation of pay;

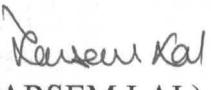
This has the approval of the Finance Directorate of the Ministry of Railways."

2. This was lost sight of by the respondents when they filed the counter wherein, referring to two decisions of the Apex Court, the respondents have contested the O.A. But those decisions were prior to the issue of the above order and as per the latest order, stepping up of pay is permissible in respect of such cases as of the applicant.

3. Thus, **the OA succeeds.** Respondents have clearly spelt out the difference in pay scale in their counter. The stepping up is admissible equalizing the pay

of the applicant at par with his junior from the date the junior started drawing more pay than the applicant.

4. Respondents are directed to pass suitable orders and pay the difference in the pay and allowances. Time limit for passing suitable orders is 2 months from the date of receipt of this order, while time limit for making the payment of arrears of pay and allowances within two months thereafter. No cost.


(TARSEM LAL)
MEMBER(ADMN.)


(DR.K.B.S.RAJAN)
MEMBER(JUDL.)