

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1049 /1996

Date of Order: September 27, 2004

PRESENT: HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

HON'BLE MR. M.K. GUPTA, MEMBER (J)

Shri Bimal Chandra Roy,
S/o Late Shri Sahadeb Roy,
Resident of Madandihi,
P.O. Bartoria, P.S. Netoria,
Distt : Purulia

.... Applicant

V e r s u s

1. Union of India, service through the
General Manager, South Eastern Railway,
having its Office at Garden Reach,
Calcutta - 43

2. The Divisisol Personnel Officer,
South Eastern Railway, Adra,
P.O. Adra, Distt. Purulia

3. The Senior Divisional Operation Manager,
Adra, P.O. Adra,
District : Purulia

4. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta-700 043

.... Respondents

For the Applicant : None

For the Respondents : Mr. S. Chowdhary

O R D E R

BY SARWESHWAR JHA, MEMBER (A) :

This OA has been filed against the letter/
order of the respondents dated the 6th February, 1996
whereby they have intimated the applicant why and how
his pay cannot be fixed with reference to Shri K.N.
Mahato, an employee junior to him. It has been prayed
that the said letter/order of the respondents be
withdrawn and that his request for stepping up his pay

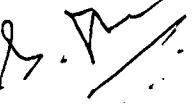
S. Chowdhary

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with reference to his junior Shri Mahato in the post of A.Y.M. as on 28.03.1986 may be considered, with further prayer that all consequential benefits including arrears of pay with 18% interest per annum be also granted to him.

2. The facts of the matter, briefly, are that the applicant, who initially joined the respondents on 24.10.1964 through the Railway Service Commission and who was posted as Trains^o Clerk on 24.10.1971 and promoted as Goods Clerk on 10.06.1979, was granted promotion to the post of Assistant Yard Master (A.Y.M.) on 06.06.1985. His pay as A.Y.M. was revised to Rs.1560/- per month w.e.f. 01.01.1986 in the revised scale, whereas pay of his junior, namely, Shri Mahato, who was promoted to the post ~~of~~ A.Y.M. w.e.f. 28.03.1986 was fixed at Rs.1850/- in the same scale of pay. The contention of the applicant is that he has been senior to Shri Mahato all along while working as Trains^o Clerk and both of them were promoted as Guard (Running Staff) vide the same Office order dated 06.12.1982. While the applicant was promoted as A.Y.M. in June, 1985, Shri Mahato was promoted to the said post in March, 1986.

3. Being not satisfied with how pay of Shri Mahato, his junior, was fixed at higher amount, the applicant made several representations to the authorities concerned requesting them to step up his pay with^o reference to his said junior. But having received no response from them, he served a legal notice on them vide Annexure A-ii. The impugned ~~Q~~ letter of the respondents ~~has~~ been received by the applicant in response to the said legal notice. The respondents have tried to explain the facts of the case in the reply to the legal notice. It is observed that, according to the



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respondents, the pay of the applicant, who was a Guard before 01.01.1986 and had been promoted as A.Y.M. w.e.f. 06.06.1985, had been fixed taking into account 30% of his pay on promotion as A.Y.M. (Stationary Duty) and accordingly his pay had been raised from Rs.390/-, which he had been drawing as a Guard, to Rs.530/-, after such refixation, in the scale of pay of Rs.455-700/-. After the 4th Pay Commission's recommendations became effective from 01.01.1986, his pay was fixed at Rs.1560/- in the scale of pay of Rs.1400-2300/- which was equivalent of Rs.530/- in the said scale of pay. On his promotion as YM and Dy CYM his pay now stands ~~fixed~~ at Rs.2180/- in the scale of pay of Rs.2000-3200/-. The respondents have admitted that Shri Mahato is junior to the applicant and, as a Guard, he was drawing lesser pay of Rs.380/- as on 01.06.1985. On the implementation of the 4th Pay Commission's report, his pay was fixed at Rs.1380/- in the scale of Rs.1200-2040 w.e.f. 1.1.1986 as a Guard. When he was promoted as AYM (Stationary Duty) w.e.f. 28.3.1986, his pay was fixed at Rs.1850/- taking into account 30% element consequent on his promotion to the stationary job on the erstwhile pay of Rs.1380/- fixed as on 01.01.1986. He has accordingly been drawing more pay than the applicant, though the latter got promoted as AYM earlier. The anomaly has, however, arisen due to the fact that fixation of pay, taking into account the 30% element on promotion to the post of AYM in the case of the applicant was done prior to 01.01.1986. Shri Mahato also is now promoted to YM in the scale of Rs.1600-2660/- and his pay also fixed at Rs.2150/- as on 01.10.1990. So, the anomaly has arisen only with reference to the pay of the applicant in the post of AYM with reference to Shri K. N. Mahato.



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4. The respondents in their reply to the OA have submitted the same facts as given in the impugned order. They have clarified that while in the case of the applicant at the time of pay fixation on 6.6.1985 in the post of AYM only 30% of Rs.390/-, i.e., Rs.130/- had been taken into account, in the case of Shri Mahato 30% of Rs.1380/-, i.e., Rs.460/- was taken as pay element as on 28.3.1986, which resulted in Shri Mahato's pay becoming higher than that of the applicant. It has been further contended by the respondents that even though the pay of the applicant is less than that of Shri Mahato, he is not entitled to get stepping up of pay in terms of the Railway Board's Letter No.E (P&A)11/88/RS-12 dated 16.09.1988 as circulated under Estt. Srl. No. 233/88. It has been explained that, in terms of the said letter of the Railway Board, stepping up of pay is to be allowed to the running staff only if appointed as Loco Running Supervisors, in whose cases 30% of basic pay is taken as pay element in the running allowance. In this connection, paragraph 3 (a) and (c), which read as under, are relevant:

"3. (a) The stepping up of pay will be allowed to running staff only appointed as loco running 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 Deptt. appointed as Loco Running Supervisors as in their cases the question of pay element in the running allowance does not arise.

(c) stepping up will be allowed only once; the pay so fixed after stepping up will remain unchanged.

5. It is thus observed that the applicant has already been given the benefit of 30% element in fixation of his pay. It is only a matter of point of time for giving the said benefit by virtue of the fact that the applicant as well as Shri Mahato were promoted

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to the post of AYM with difference in their pay fixation, ~~xxxxxx~~ leading to Shri Mahato drawing higher pay as AYM. The fact remains that the applicant was ~~promoted~~ promoted as AYM earlier than Shri Mahato and as a result he was given the benefit of 30% element in pay fixation prior to 4th Pay Commissions's recommendations ~~became~~ ^{having} effective. Shri Mahato had no hand in it nor had the respondents any idea in it. It was only for the reason that Shri Mahato was promoted to the post of AYM after the 4th Pay Commission's report ~~became~~ ^{had} effective with the benefit of 30% element ~~extended~~ extended to him on the basis of his pay revised after the 4th Pay Commission's report ~~had~~ ^{become} effective. In terms of paragraph 3 (c) of Railway Board's circular dated 16.9.1988, as referred to hereinabove, stepping up of pay will be allowed only once; the pay so fixed after stepping up will remain unchanged. Accordingly, we do not find any infirmity or anomaly in the action taken by the respondents. Seniority of the applicant with reference to Shri Mahato has not been affected by pay fixation.

6. In consideration of the above and after having perused the facts of the case carefully and finding no merit in the case of the applicant, we are of the considered view that the OA has to fail and, accordingly, it is dismissed. No order as to costs.