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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.**

O.A. No. 58/95

Date of Order: 19.3.1998

L.C. Paliwal s/o Shri Govind Ram r/o 27/11 Pulan, Udaipur,  
at present employed on the post of Manager, Canteen, Zonal  
Training Centre, Udaipur, Western Railway.

... Applicant

VERSUS

1. Union of India through the General Manager, Western Railway,  
Churchgate, Bombay.
2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. The Principal-cum-Chairman, Zonal Training Centre, Udaipur.

... Respondents

Mr. J.K.Kaushik, Counsel for the applicant.  
Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member  
Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

The applicant, L.C. Paliwal, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for a direction that the applicant should be given pay fixation in the scale of Rs. 330-560 instead of Rs. 330-480 w.e.f. 1.6.82 with all consequential benefits.

2. The case of the applicant is that he was initially appointed to the post of Manager in the Railway canteen at Udaipur on 3.9.72. That the canteen at Zonal Training Centre, Udaipur is a non-statutory (recognised) canteen. That in terms of the decision of Hon'ble Supreme Court in MMR Khan's case all the employees of the statutory canteens as well as non-statutory (recognised) canteens of the Railways have been declared as a Railway servant w.e.f. 1.10.80. That the Railway Board vide its letter dated 11.3.82 had revised the pay scale of employees of statutory canteens of the Railways. The pay scale of Manager Grade-I of the statutory canteen was revised from Rs. 300-500 to Rs. 330-560. The Railway Board vide its letter dated 13.5.83 revised the pay scale in respect of employees of non-statutory canteen in pursuant to Hon'ble Supreme Court's order dated 22.4.83 in MMR Khan's case. The contents of the order are reproduced

*Gopal Singh*

below;

"We direct that pending hearing and final disposal of Writ Petitions all employees of non-statutory canteens will be paid at the same rate and at the same basis on which employees of statutory canteens are being paid. This direction will take effect from 1.6.82, that being the date from which according to the petitioners they have not been paid salary though that government is disputed on behalf of the respondents. This direction will be without prejudice to the rights and contention of the parties and particularly the claim of the petitioner to arrear of salaries on the revised basis from an earlier date as also the claim of the respondents that they are not liable to pay the employee of the non-statutory canteens in four weeks from today and the future payments will be continued to be made on the revised basis from month to month. CMP will come up for hearing on 18th July, 1983 for reporting compliance with our directions."

The Railway Board circular dated 13.5.83 was circulated by the Western Railway Headquarters vide its letter dated 23.5.83, mentioning therein the revised scale of Manager as Rs. 330-480 instead of Rs. 330-560. It was specifically mentioned in the Western Railway Headquarters Circular letter dated 23.5.83 that;

2. "The revised scales applicable to the different categories of staff of non-statutory canteens are given in the Board's letter. For further details, the Board's letter No. E(W)81CN1-21 dated 11.3.1982 may be referred to".

The scale of pay of Manager Grade-I drawing salary in the existing scale of Rs. 300-500 was revised to the scale of Rs. 330-560 vide Railway Board's letter dated 11.3.82.

3. The learned counsel for the respondents have contested the claim of the applicant on the ground of the limitation. In reply, learned counsel for the applicant have asserted that the applicant has the continuing cause of action as he is drawing less pay every month and that his representations to the authorities have not born any fruit. Even if the application is barred by limitation, we feel that the application deserves to be disposed of on merit. Further learned counsel for respondents tried to make out distinction between various type of canteens and duties and responsibilities of Manager working in various type of canteens under the Railways.

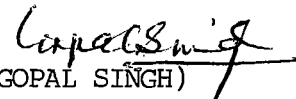
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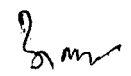
4. We have heard the learned counsel of both the parties and perused the records of the case.

5. As discussed above the Hon'ble Supreme Court had very specifically in its interim directions dated 22.4.83 directed that all employees of non-statutory canteens will be paid at the same rate and at the same basis on which employees of statutory canteens are being paid and further that this direction will take effect from 1.6.82. Accordingly the Railway Board had issued clear instructions in this regard for giving the same scale of pay as drawn by the employees of the statutory canteens to the employees of non-statutory canteens. Further, as a result of final judgment of the Hon'ble Supreme Court in the MMR Khan's case, the Railway Board had issued instructions vide its letter dated 18.5.90 (Annex.A/8) for treating as Railway servant the employees of the statutory and non-statutory canteens of various Railways/Production Units. Further, the Railway Board has framed common recruitment rules for canteen employees (statutory and non-statutory recognised canteens), vide its letter dated 27.5.92. We are in no doubt that the pay scales enjoyed by the employees of non-statutory canteens should have been made applicable to the employees of non-statutory (recognised) canteens of the Railways in terms of Hon'ble Supreme Court order. We, thus, find merit in the application and the same deserves to be allowed.

6. The O.A. is accordingly allowed and disposed of with the directions to the respondents that the applicant should be given pay fixation in the scale of Rs. 330-560 w.e.f. 1.6.82 with all consequential benefits within a period of three months from the date of receipt of a copy of this order.

7. Parties are left to bear their own costs.

  
(GOPAL SINGH)  
Administrative Member

  
(A.K.MISRA)  
Judicial Member

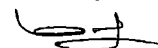
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Part II and III destroyed  
in my presence on 8-4-2004  
under the supervision of  
section officer ( ) as per  
order dated 22/12/2003



Section officer (Record)