

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : August 12, 1999.

O.A. No. 199/1996

Chandra Deo Gupta son of late Shri Ramhet Agarwal aged about 61 years resident of C/o. Dr. Lalit Gupta, 5, University Flats, P.W.D. Road, Jodhpur, last employed on the post of Head Master, Railway Adler Primary School Jones Gray, Ajmer.

... Applicant.

v e r s u s

1. Union of India through the General Manager, Western Railway, Church Gate, Bombay.
2. President-Cum-Senior Personnel Officer, Loco Workshop, Western Railway, Ajmer.

... 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)

Applicant, Chandra Deo Gupta, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 11.10.94 (Annexure A/1), qua the applicant, and the order dated 21.6.95 (Annexure A/2). The applicant has also prayed for a direction to the respondents to allow due fixation of pay with all consequential benefits and arrears thereof be paid alongwith interest at the market rate.

2. Applicant's case is that in terms of respondents' letter dated 11.4.88 (Annexure A/3), his pay in the senior grade was fixed under Rule 2018-B (F.R. 22-C). However, his pay fixation was revised

*Gopal Singh*

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by the respondents vide their letter dated 11.10.94 (Annexure A/1) denying the benefit of Rule 2018 for fixation of pay of the applicant. The respondents after giving show cause notice to the applicant have also ordered recovery vide Annexure A/1. The applicant represented many times to the respondents in this regard, but his representation has been rejected by the respondents vide their letter dated 21.6.95 (Annexure A/2). Feeling aggrieved, the applicant has filed this O.A.

3. Notices were issued to the respondents and they have filed their reply. In their reply, the respondents have submitted that Railway Board's circular dated 11.4.88 has been amended by another circular dated 6.7.89 and 20/26.7.89 and recovery has been ordered accordingly.

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

5. It would be appropriate to go through all the instructions/guidelines in regard to pay fixation on revision of pay scales of school teachers. In this connection, para 7 of the Railway Board's circular dated 11.4.88, relevant extract of Railway Board's letter dated 7.6.89, 6.7.89 and dated 10.5.95 are reproduced below:-

"Railway Board's letter dated 11.4.88 :

(7) There are situations in the new grade structure where the selection grade (non-functional) allotted to a particular category of teachers, happens to be higher than the basic promotional grade to be allotted on promotion. For example, a trained graduate teacher holding the selection grade (non-functional of Rs. 2000-3500 will ordinarily be promoted to the post of graduate teacher headmaster whose basic grade is Rs. 1640-2900. In such cases, since the selection grade happens to be higher than the basic grade of the promotional post, the pay of such teachers will be fixed in the corresponding senior grade of the promotional post, which is identical to the selection grade of the post from which promoted. However, since the pay scales are identical, the pay in such cases will be fixed only under Rule 2017 (a) (ii) [F.R.22 (a) (ii)]-RII, and not under Rule 2018-B (F.R.22-C)-RII. In all other cases where appointment takes place from a lower grade to a higher grade, which is superior to the lower grade pay will be fixed under Rule 2018-B (FR-22C) R.II."

" Railway Board's letter dated 7.6.89:

2. It has come to the notice of this Ministry that when pay is fixed in the manner indicated in the preceding paragraph, in a number of instances and, in particular, in those cases where there is no stage in the scale of pay attached to the new post, equal to the pay drawn in respect of the old post, the Railway employee is put to a disadvantage in that his pay is fixed at the stage next below his pay in the old post and the difference is granted to him as personal pay which is, however, not counted for

*Compulsory*

the purpose of various allowances like dearness allowance, house rent allowance, retirement benefits, etc. After careful consideration of the whole matter, in consultation with Department of Personnel & Training, the President is pleased to decide that when a Railway employee is appointed from one post to another, where the appointment to the new post does not involve assumption of duties and responsibilities of greater importance than those attached to the old post, including appointment to a non-functional selection grade, he will draw as initial pay the stage of time scale of the new post which is equal to his pay in respect of the old post, or if there is no such stage, the stage next above his pay in respect of the old post. While in the former case his next increment will become due on the date he would have received an increment in the old post, in the latter case his next increment in the new post, however, will become due on completion of the required period, after which an increment is earned in the time scale of the New post. If the minimum pay of the time scale of the new post is higher than his pay in respect of the old post, he would draw that minimum as his initial pay."

" Railway Board's letter dated 6.7.89:

Attention is invited to this Ministry's letter No. PC-IV/89/FOP/2 dated 7.6.89 regarding fixation of pay on appointment from one post to another not involving assumption of higher duties and responsibilities including appointment to non-functional selection grade posts. In partial modification of the instructions contained in para (7) of this Ministry's letter of even number dated 11.4.88, it is clarified that the orders contained in Board's letter of 7.6.89 will be applicable to school teachers also, wherever fixation of pay has to be regulated under the provisions of Rule 1313 (FR 22) (a) (ii)-R.II."

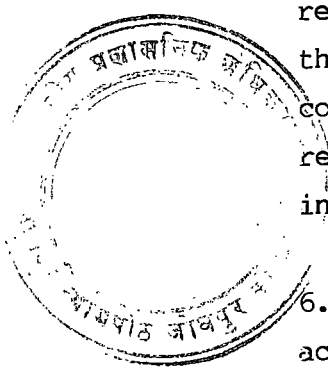
"Railway Board's letter dated 10.5.95 :

In terms of Railway Board's letter No. E(P&A)I-87/PS-5/PE-5 dt. 11-1-88, Teachers in various categories are allotted senior grade after completion of 12 years in basic grade. Selection grade to Teachers is granted after 12 years service in senior grade subject to attainment of the prescribed level of qualification. Since appointment to senior grade and selection grade does not involve promotion, the fixation of pay in such cases is to be done under Rule 1313 (ii), erstwhile Rule 2017 (a) (ii) RII."

It would be seen that the order regarding revision of pay scales of School Teachers was initially issued on 11.1.88 and subsequent orders were issued on 11.4.88, 7.6.89, 6.7.89 and 10.5.95. This revision of pay scales provides for grant of next higher scale after completion of 12 years of service without assumption of higher responsibilities by the concerned teacher and accordingly, the Railway Board have directed that in such case, the higher scale is being given after completion of 12 years of service in terms of this scheme without shouldering higher responsibilities and the pay fixation would be done under Rules 2017 and not under Rule 2018. Though in terms of para 7 of Railway Board's letter dated 11.4.88 application of Rule 2018 in matters of pay fixation was provided, this mistake of giving the benefit of pay fixation under Rule 2018

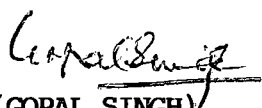
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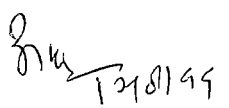
without assumption of higher responsibilities is being sought to be rectified vide Railway Board's letter dated 6.7.89. It is a fact that school teachers have been provided revision of pay scale after completion of 12 years of service without assumption of higher responsibilities. We thus do not find any justification to intervene in the matter.



6. The O.A. is, therefore, devoid of any merit and is accordingly dismissed.

7. Parties are left to bear their own costs.

  
(GOPAL SINGH)  
Adm. Member

  
( A.K. MISRA )  
Judl. Member

CVR.