

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

ORDER SHEET

Orig. APPLICATION NO. 160 OF 1998

Applicant(s)
Pema Ram

Respondent(s)
U.O.I & orsl

Advocate for
Applicant(s)

Mr. Vijay Mehta

Advocate for
Respondent(s)
Mr. V.S.Gurjar.

Notes of the Registry	Orders of the Tribunal
<u>24.4.2000</u>	<p>Mr. Vijay Mehta, Counsel for the applicant.</p> <p>Mr. V.S.Gurjar, Counsel for the respondents.</p> <p>Heard the learned counsel for the parties on the point of admission.</p> <p>In this OA, the applicant has sought direction against the respondents to the effect:-</p> <ul style="list-style-type: none"> (i) To make payment of Mazdoor Gr. III to the applicant w.e.f. 5.2.87. & (ii) To make payment of Mazdoor Gr. IV to the applicant w.e.f 23.2.96 i.e. the date of his promotion. <p>In the rejoinder, the applicant has admitted that wages of the post of Maz-door Gr. IV have been received by the applicant w.e.f, 23.2.96. Learned counsel for the respondents has also admitted that the payment has been made relating to prayer No. 2. Hence no discussion is needed on this point.</p> <p>Relating to first prayer, learned counsel for the applicant submits that on representation of the applicant, the applicant was promoted to the post of Mazdoor Gr. III w.e.f 5.2.87, ie, the date applicant's junior was promoted to the post of Mazdoor Gr. III, but actual monetary benefits have not been given to the applicant for that period on the ground that he had not worked on the promotional</p>

post. He further submits that the duties of a Mazdoor are not different as per their gradation and therefore Mazdoor remains a Maz door, may be of Grade III or may be of Grade II. Hence he is entitled to the actual monetary benefits as per the difference of the pay.

Pray will be ended

On the other hand learned counsel for the respondents opposed the prayer of the applicant. He has further submitted that applicant has been assigned due Seniority viz-a-viz his junior Shri Guman Ram, but he is not entitled to difference of pay.

I have considered the rival arguments there is nothing on record to show that the applicant was denied the promotional grade of Mazdoor Gr. III on account of some pending departmental action. It appears that the name of the applicant was left out inadvertently by the administration, while considering the cases for grant of grade III to the mazdoors and ~~that is~~ why the representation of the applicant in this regard seems to have been accepted by the department.

When a candidate has been so left out from being granted the promotion scale either inadvertently or due to some administrative error, then the respondents cannot deny him his dues i.e; the actual difference of pay on the ground that he has not worked on promotional post. If this plea of the respondents is accepted, it would mean that respondents would not be accountable for such administrative mistake, that they had committed. I may repeat

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**Advocate for
Applicant(s)**

Advocate for Respondent(s)

Notes of the Registry	Orders of the Tribunal
	here that the learned counsel for the respondent had not been able to show the difference of duty of Mazdoor Gr. II and of Mazdoor Gr. III and the the principal of not shouldering the the higher responsibilities for such higher payment cannot be allowed to be taken by the respondents. In my opinion, the applicant is entitled to actual monetary benefits of the grade of Mazdoor III w.e.f. 5.2.87 to 14.12.95. From 15.12.95 onwards, the applicant has been granted actual monetary benefits as per Annex. A/1 dated 18.4.98.
	The OA therefore, deserves to be accepted accordingly.
Copy Received H.P.W. 12/8/26 (V.S. Gargjani) Adv.	The OA is therefore partly accepted. The respondents are directed to pay the difference of pay/wages and allowances, if any, as per rules of the post of Mazdoor grade III, w.e.f. 05/2/87 to 14.12.95, to the applicant within a period of three months from the date of communication of the orders. To this extent Anx. A/1 Dated 18/4/98 stands quashed.
27/4/00 by order Sent to the Respondents Part II and III destroyed in my presence on 17.1.06 under the supervision of Section Officer (J) as per order dated 23/1/06 H.S. 1-5-2000 S. (S. J. M.)	No orders as to costs. (A. K. MISRA) Judl. Member. Section Officer (Record)