

# 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 & crsl  
Advocate for Applicant(s) Mr. Vijay Mehata Advocate for Respondent(s) Mr. V.S.Gurjar.

Notes of the Registry

Orders of the Tribunal

24.4.2000

Mr. Vijay Mehata, Counsel for the applicant.

Mr. V.S.Gurjar, Counsel for the respondents.

Heard the learned counsel for the parties on the point of admission.

In this CA, the applicant has sought direction against the respondents to the effect:-

- (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.

In the rejoinder, the applicant has admitted that wages of the post of Mazdoor 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.

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, i.e. 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

post. He further submits that the duties of a Mazdoor are not different as per their gradation and therefore Mazdoor remains a Mazdoor, 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.

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 Gumana 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 <sup>that is</sup> 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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APPLICATION NO. \_\_\_\_\_ OF 199

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Respondent(s)

Advocate for  
Applicant(s)

Advocate for  
Respondent(s)

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here that the learned counsel for the respondents had not been able to show the difference of duties of Mazdoor Gr. II and of Mazdoor Gr. III and therefore the principal of not shouldering 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 CA therefore, deserves to be accepted accordingly.

The CA 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 Amr A1 Dated 18 <sup>4</sup>/<sub>98</sub> stands washed.

No orders as to costs.

( A.K.MISRA )  
Judl. Member.

Part II and III destroyed  
in my presence on 17.1.06  
under the supervision of  
section officer ( ) as per  
order dated 23.1.06

Section officer (Records)

Copy Received

*[Signature]*

12/13/20

(V.S. Garg) Adv

Copy Recd

Mr. Chandel  
for V. Mehta Adv

27/4/00

Copy of order sent to  
Counsel for the Respondents

Recd No

1-5-2000

*[Signature]*  
11/5/2000