

14/10/05

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR.**

**O.A. No. 277/2002**

**Date of decision: 19.01.2005.**

**Hon'ble Mr. Kuldip Singh, Vice Chairman.**

**Hon'ble Mr. M K Misra, Administrative Member.**

Mansingh, S/o Tikku Singh aged 50 years by caste Rajput resident of Railway Nehru Colony, WS 5/D Jodhpur, at present working as Ferro Printer, Drawing Section, Northern Railway, Workshop Jodhpur.

: Applicant.

Rep. By Mr. Sumeet Mehta: Counsel for the applicant.

**VERSUS**

1. Union of India through General Manager, North West Railway, HQ Jaipur.
2. Senior Section Engineer, Drawing North West Railway, Workshop, Jodhpur.
3. Accounts Officer, Workshops, North West Railway, Jodhpur.
4. Deputy Chief Mechanical Engineer, North West Railway, Jodhpur.
5. Assistant Personnel Officer, through Deputy chief Mechanical Engineer North West Railway, Jodhpur.

: Respondents

Rep. By Mr. Manoj Bhandari : Counsel for the respondents.

**ORDER**

**Mr. Kuldip Singh, Vice Chairman.**

The applicant praying for a direction to the respondents to pay him the difference amount along with 18% interest by treating him in the pay scale of Rs. 950-1500, since he was appointed as Ferro Printer from 28.08.1987 has filed this O.A. He has also prayed for quashing of Annex. A/1, vide which his representation had been turned down.

2. The case of the applicant is that he was initially appointed as Casual Labour and he was appointed as substitute Khalasi on 22.10.68. In the year 1987, while he was working as Peon in the drawing section, he was accorded

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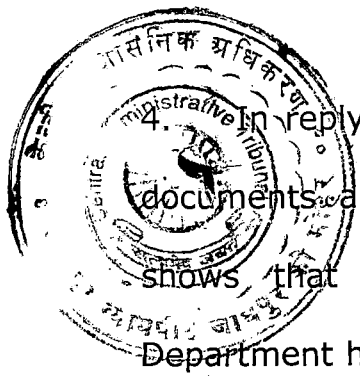
an opportunity to appear in the trade test conducted for the post of Ferro Printer. He appeared in the test and was declared as successful and thereafter he was appointed on the post of Ferro Printer in the pay scale of Rs. 800-1150/- as per annexure A/5. It is submitted by him that he is continuously working on the post of Ferro Printer since then. In the meantime he came to know that there is an anomaly regarding pay on the same post in the respondents department. It is further submitted that the other Ferro Printers working in the same department have been fixed in the higher scale of pay of Rs. 825-1200. It is contended by him that he has been deprived of his legitimate dues, though he has been given promotion as Ferro Printer and paid in the pay scale of Rs.800-1150/- whereas the other Ferro Printers are being paid in the pay scale of Rs. 825-1200/-. He further submitted that some of the Ferro Printers are also being paid in the pay scale of Rs. 950-1500/- and hence the applicant is also entitled to the pay in the pay scale of Rs. 950-1500/-.

3. The respondents are contesting the O.A. The respondents in their reply pleaded that the O.A has been filed by the applicant belatedly and hence it is barred by limitation under Sec.21 of the Administrative Tribunals Act. According to the respondents the cause of action had arisen to the applicant in the year 2000 when the Annex. A/1 was issued, vide which the representation of the applicant had been rejected, but the O.A has been filed only in the year 2002 and hence the period of limitation had already expired. Therefore the O.A is barred by limitation and hence the O.A is not maintainable. It is further stated that on merits also the applicant has no case. He has failed to show that any of his legal rights has been affected. The respondents further submitted that the post of Ferro Printer is a cadre post which carries the pay scale of Rs. 800-1150/- and the pay of the



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applicant has been rightly fixed at Rs. 950/- in the pay scale of Rs. 800-1150/- on 28.08.87 as per Annex. R/3. The respondents have also annexed along with the reply a letter dated 17.06.96, (Annex. R/4) which deals with promotion of Group 'D' staff to Group 'C' and promotional channel provided to them has been annexed along with the said letter. It is clear from the chart that Ferro Khalasis in the scale of Rs.750-940/- is eligible to be promoted as Ferro Printer in the pay scale of Rs. 800-1150/- on qualifying the trade test. From the post of Ferro Printer one would still go to the higher post of Ferro Typer in the pay scale of Rs. 825-1150/- on passing the trade test with 3 years service in Group D. . After that one can become Clerk cum typist in the pay scale of Rs. 950-1500 with 3 years service in Group D on passing the written test as per P.S No. 9424. The learned counsel for the respondents submitted that Ferro Printer is eligible for the scale of pay of Rs. 800- 1150 and thus the pay of the applicant was rightly fixed at Rs. 950/- in the above pay scale.



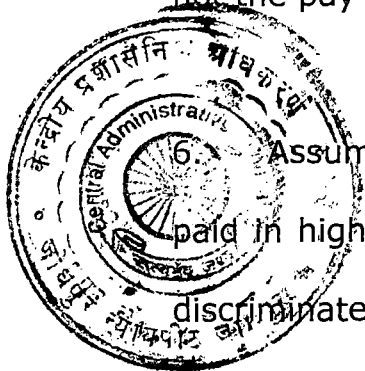
In reply, the learned counsel for the applicant has referred to certain documents annexed with the rejoinder (i.e. Annex. A-7 to A-11) which shows that certain persons who were working in the Construction Department have been given the pay scale of Rs. 950-1500/-. Relying upon the same, the learned counsel for the applicant contended that since other persons have been given the pay scale of Rs. 950-1500, the applicant's claim for the pay scale of Rs. 825-1200/- has to be accepted and the applicant cannot be treated discriminately.

5. We have considered the rival contentions of the parties. It is an admitted case of the applicant that the applicant had been promoted from Ferro Khalasi to the post of Ferro Printer and as per the channel of

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promotion, as per the chart annexed to the letter dated 17.06.96(Annex. R/4) Ferro Khalasi is entitled to be promoted as Ferro Printer in the scale of pay of Rs. 800-1150/- after passing the trade test. It is not the case of the applicant that he has been promoted as Ferro Typer. The illustration given by the learned counsel for the applicant as per Annex. A/7 to A/11 cannot be accepted since those documents relates to construction department. The persons mentioned therein have been given the pay scale of Rs. 950-1500 only after passing the requisite trade test. But in general the pay scale for the post of Ferro Printer is only Rs. 800-1150/- as per the instructions issued by the Northern Railway H.Qs office. We are of the considered opinion that the applicant can claim the pay scale of the post in which he is working and not the pay scale meant for the higher post.



Assuming for the sake of arguments that some Ferro Printers are being paid in higher scale, that will not make that the applicant has been treated discriminately. The learned counsel for the respondents rightly contended that the applicant cannot claim equality in negative. In support of this contention, the learned counsel for the respondents has also referred to a judgement of the Apex Court in the case of **Union of India and another vs. International Trading Co & Anr.** [2003 (5) SCC 437], wherein their Lordships of the Apex Court have held as under:

" Merely because Government wrongly granted renewal of permits to some other persons, non-renewal of permit to respondent cannot be challenged on ground of discrimination. Art. 14 does not contemplate repetition of wrong action."

However, as regards the pay scale of Rs. 800-1150/ the learned counsel for the applicant is not in a position to show that the pay scale of Ferro Printer is not Rs. 800-1150 and it is Rs. 825-1200/-. We are shown that the pay scale of Rs. 825-1200/- is meant for Ferro Typer. Since the applicant is not a Ferro Typer, he cannot be granted the pay scale of Rs. 825-1200/-. We are

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of the considered view that the respondents have rightly rejected the representation of the applicant and no interference is called for from this Tribunal. The O.A is accordingly dismissed. No costs.

  
(M K Misra)  
Administrative Member

  
(Kuldip Singh)  
Vice Chairman.

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Part II and III destroyed  
in my presence on 08/01/2014  
under the supervision of  
section officer ( ) as per  
order dated 18/12/2013

Section officer (Record)

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