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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.324/2002
Date of Decision : this the 17th day of August, 2004.

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. G.R. Patwardhan, Administrative Member

Girdhari Lal S/o Sh. Ram Chander
Aged 63 years, Retired Master Craftsman
(Signal and Telecommunication Deptt.)
North West Railway R/o Village and Post Office
Udasar, Tehsil Bikaner Distt. Bikaner.

.....Applicant

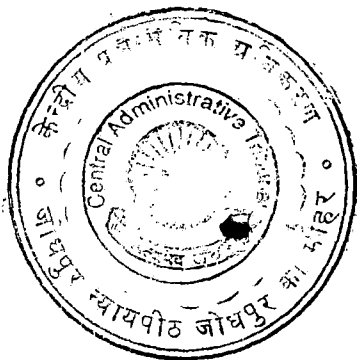
[By Mr. Y.K.Sharma, Advocate, for applicant]

Union of India ^{Versus} through :

1. General Manager, North West Railway,
H.Q. Office, Jaipur.
2. Divisional Railway Manager,
North West Railway, Bikaner.
3. Divisional Personnel Officer,
North West Railway, Bikaner.

.....Respondents.

[By Mr. N.K. Khandelwal, Advocate, for respondents]



ORDER

[BY G.R.PATWARDHAN]

This is an application by Girdhari Lal, retired Master Craftsman, Signal & Tele-Communication Department (S&T), North Western Railway, Bikaner, against the Union of India through the General Manager, North Western Railway, Jaipur, Divisional Railway Manager, Bikaner and the Divisional Personnel Officer, Bikaner. The application has been filed on 30.10.2002 and what is under challenge is an order dated 16.10.2001 placed at Annex. A/1 by which, representation of the applicant dated 11.10.2001 has been replied to and which he considers a

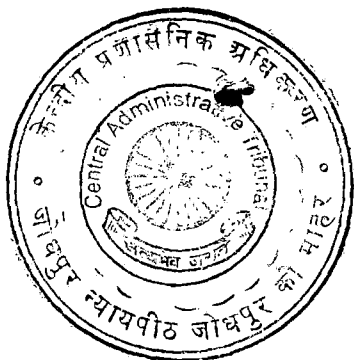
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refusal to accede to his prayer for refixation of his pay (stepping up) vis-à-vis Mr. Padam Nath also belonging to S. & T. department and since retired from the post of Master Craftsman.

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2. Learned counsel for both the parties have been heard and reply filed by the respondents perused.

3. The pleadings reveal that a Division Bench also adjudicate a similar issue before this Tribunal in O.A. No. 346/1995 decided on 20.9.1999, a copy of which is placed at Annex. A/2. The prayer in that application filed by Girdhari Lal against the same set of respondents, was to consider his case for appointment to the post of Master Craftsman in the category of Mason instead of in the merged category of Tin & Copper Smith (T&C). After traversing the arguments and replies, the Tribunal recorded that though the respondents had rejected the claim of the applicant for appointment to the post of Master Craftsman in the scale of Rs. 1400-2300, they categorically stated in their reply that the applicant was allowed this pay scale w.e.f. 3.2.1993 and in the light of this averment, nothing more remained to be decided. It may, therefore, be seen that the order in that O.A. merely took on record the fact of Girdhari Lal having been allowed the pay scale w.e.f. 3.2.1993 – which was his prayer.



Nothing has been shown to the effect that the applicant tried to have this order of 20.9.1999 clarified for the purpose of the relief that he is now claiming nor if the same order was

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agitated in any other forum for being short of his expectation.

The applicant retired in May 1997 and thus, it has to be presumed that this order has attained finality.

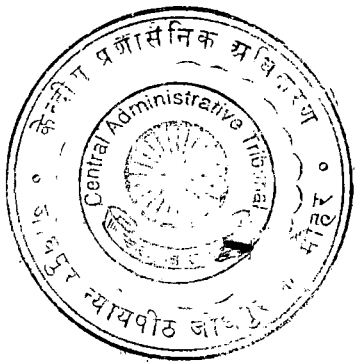
4. The case of the applicant, briefly stated is, that originally i. e. some time in the early sixties, there were two streams of workers in the Railways - one miscellaneous side of S. & T. department and the other T&C Smith stream. The applicant was appointed as a Khalasi in the miscellaneous category in 1959 whereas Mr. Padam Nath was appointed as a Khalasi in 1961. Admittedly, the two streams were different and there was nothing common except some pay scales. However, in the year 1995, the miscellaneous stream and the T&C stream were merged but before that, in his own stream Mr. Padam Nath was given the pay scale of Rs. 1400-2300 w.e.f. 3.2.1993. It is the case of the applicant that although Mr. Padam Nath joined two years later in Railway service but he was given the higher pay scale earlier to the applicant. Obviously, therefore, the applicant is trying to consider date of first appointment under the Railways even in different streams as the guiding factor for giving further promotions - something which does not stand to reason. It is also a little perplexing that in his representation to the Divisional Railway Manager, Bikaner, on 31.5.1997, a copy of which is placed at Annex. A/4, in paragraph 4, the applicant submits as follows: -

"It is submitted that Shri Padam Nath was drawing Rs. 1,760/- on 3.2.1993 whereas, I was at Rs. 1,520/- on 3.2.1993 and Rs. 1,560/- on 3.6.1993."

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If it is remembered that the merger of two streams took place sometime in 1995, it becomes obvious that in the merged category, the person getting the higher pay would rank senior unless there is a decision to the contrary. If at all the applicant had a grievance against this merger or against his not having been given the same scale of pay as enjoyed by Mr. Padam Nath, from the same date, the opportunity to agitate could have been taken immediately after the merger was ordered. It has not been established before us that this was taken or that the matter is still pending. In so far as the issue of giving the same pay scale is concerned, it is apparent that the Railways themselves have given the pay scale of Rs. 1400-2300 which has received even the stamp of this Tribunal in the O.A. referred to above. That being the position, this issue has become a res judicata.



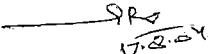
5. Coming lastly to the question, if even after merger of two streams, the original seniority in different streams should be considered for pay fixation, nothing more is required to be looked into than the Circular No. 831-E/123-III (EIB) dated 22.4.1966, a copy of which has been appended to the reply as Annex. R/4. It is specifically mentioned there that in cases where the pay of the senior employee in the higher post appears lower than that of the junior then the same can be made up by stepping up the pay of the senior employee provided both the junior and senior employees belong to the same cadre.


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6. Admittedly, this is a case where the applicant and Mr. Padam Nath, not only belonged to different streams (categories) but, the applicant himself has admitted in his representation placed at Annex. A/4 that even before merger of the streams, Mr. Padam Nath was enjoying a higher pay. It is, therefore, not a case where the pay of the applicant needs to be stepped up.



7. The application has, therefore, no merit and is accordingly dismissed. No orders as to costs.


[G.R. Patwardhan]
Member (A)

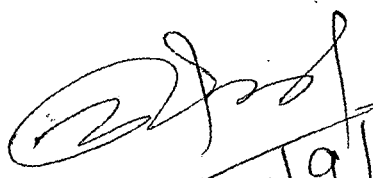

[J.K. Kaushik]
Member (J)

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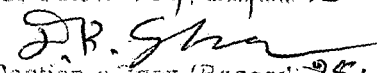
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Part II and III destroyed
in my presence on 25/10/2013
under the supervision of
section officer (1) at the
order dated 18/10/2013


Section Officer (Record) 25/10/2013