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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos.42/2005

Date of decision: 26-2-2010.

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Dr. K.S.Sugathan, Administrative Member.

Nand Lal Patel, S/O Sh Jamuna ji, aged about 58 1/2 years,, r/o Railway Station, Marwar Bhinmal, Distt. Jalore (Rajasthan) presently working on the post of chief Booking Supervisor at North Western Railway, Railway station, Marwar bhinmal, Distt. Jalore, (Rajasthan)

: applicant.

Rep. By Mr. S.K. Malik : Counsel for the applicant.

Versus



1. Union of India, through the General Manager, North Western Railway, Jaipur (Rajasthan)
2. Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur (Rajasthan)
3. Senior Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur (Rajasthan)

: Respondents.

Rep. By Mr. C.S. Kotwani : Counsel for the respondents.

ORDER

Per Mr. Justice S.M. M. Alam, Judicial Member .

Applicant Nandlal Patel, who was working on the post of Chief Booking Supervisor at North Western Railway, Marwar Bhinmal, Distt. Jalore, has preferred this O.A. for grant of following reliefs:

Signature

- (a) By an appropriate writ, order or direction impugned order No. 729/E-1/Gcomm./Pay Fixation dated 24.12.2004 (Annex.A/1), passed by respondent no. 2 be declared illegal and be quashed and set aside by this Hon'ble Tribunal.
- (b) By an appropriate writ, order or direction, respondents may be directed to show the Loyal Increment separately in the pay slip and make payment of arrear w.e.f. due date along with interest @ 12% P.A. with all consequential benefits OR consider the case of applicant's son for appointment on any Group -C post against the Loyal quota with all consequential benefits.

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(c) Any other relief which is found just and proper may be passed in favour of the applicant.

2. The Brief facts of the case are as follows:

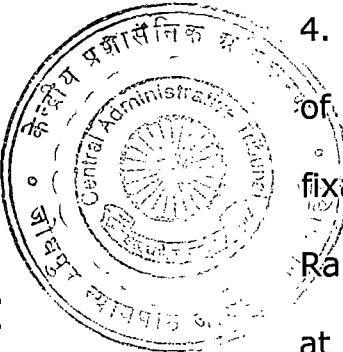
On 10.12.1968 the applicant was appointed as Booking Clerk in the pay scale of Rs. 110-200, which was revised to Rs. 260-430 w.e.f. 01.01.1973. Vide DPO letter no. 757E/P-1-G/Inc/BCs/74/X dated 09.09.1974, the applicant was granted loyal increment for remaining loyal during the period of strike and so his pay was raised from Rs.292/ to Rs.300/ w.e.f. 01.06.1974. Thereafter, the applicant was promoted to the post of Senior Booking Clerk in the pay scale of Rs. 330-560 w.e.f. 18th December, 1976. He was further promoted on the post of Head Booking Clerk in the pay scale of Rs. 425-640 w.e.f. 01.01.1984. Thereafter, he was promoted against 10% quota on the post of Chief Booking Clerk in the pay scale of Rs. 455-700 w.e.f. 24.04.1985. Lastly, he was promoted on the post of Chief Booking Supervisor in the pay scale of Rs. 2000-3200 w.e.f. 19.12.1996. Necessary entries with regard to his pay fixation on account of his promotion have been made in the service book of the applicant. Photocopies of the relevant entries of the service book have been annexed as Annexure A/2 of the O.A.

3. The grievance of the applicant is that after the 4th Central Pay Commission, while fixing his pay the increment granted to him on account of remaining as loyal worker during the strike period in the Railways has got vanished despite the fact that the Railway authorities had already issued instructions that loyal increment granted to an employee, who remained loyal during the strike period,

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will continue to get the same. It is further stated that the Railway Board had also issued a circular dated 13.02.1974 making provisions for employment of sons/daughters and dependents of Railway Employees who have rendered services during agitation and remained loyal. A copy of the circular had been annexed as Annexure A/3. It is further stated that even though the applicant had not applied for grant of loyal increment and had made several representations before the authorities for providing job to his dependent as per the Railway Board circular in lieu of remaining loyal to the Railway during the period of strike but the authorities did not pay heed to his request and granted him loyal increment.

4. The main grievance of the applicant is that after the revision of pay as per 4th Central Pay Commission report, while making his fixation of pay, the increment granted on account of his being loyal to Railways during the strike period got vanished and his pay was fixed at par with other employees who were not loyal to the Railways during the strike period. In other words persons who were getting one increment less than the applicant also got the same pay as per recommendations of 4th Pay commission. The applicant has filed representation before the authorities claiming that the loyal increment should be shown separately along with the pay on the pattern of increment granted to those persons who underwent sterilization and adopted small family norms. But the respondents vide order dated 24.12.2004 (Annex. A/1) rejected the prayer of the applicant and as such the applicant has preferred this O.A for setting

aside Annex. A/1 dated 24.12.2004 and granting the relief as prayed for.

5. After filing of the O.A, notices were issued to the respondents and in compliance to the notices all the respondents appeared through advocate and filed a joint reply. In the reply the respondents have stated that in the month of June 1974, loyal advance increment was granted to the applicant for remaining loyal to the Railways during the strike period. The said loyal increment was given to those employees who have not received any other form of benefits, such as extension/re-employment in service, rewards and consideration for appointment of wards and dependents in the Railway service. This benefit was granted as one time measure on the basis of option given by the employees. The respondents have stated that once the benefit was opted and enjoyed that cannot be changed or switched over. The said benefit was granted to the applicant in the year 1974 and he enjoyed the same for the last 30 years and at this belated stage the applicant cannot be permitted to change his option. The respondents have further stated that consequent to the implementation of the 4th Central Pay Commission report, the pay of the applicant was fixed as per the report. It has further been stated that prior to implementation of 4th Central Pay commission report on 01.01.85 the applicant's pay was at Rs. 455/- p.m.. On his promotion as Chief Booking Clerk w.e.f. 24.04.1985, his pay was fixed at Rs.485/- p.m. along with the loyal increment. It is further stated that on 01.01.1986, the 4th pay Commission report was implemented and consequent upon the implementation of 4th Pay

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Commissions recommendations, on 01.01.86 the pay of the applicant was fixed at Rs.1480/- in revised scale and thereafter on 01.04.1986 one increment was granted and his pay was fixed at Rs. 1520/-. It has been stated in the reply that the pay of the applicant was fixed in the revised scale after adding loyal increment and therefore there is no question of any loss caused to the applicant due to fixation of pay in the revised scale and also there is no question of vanishing of loyal increment. On the basis of the above pleadings the respondents have prayed for dismissal of the O.A.

6. During the course of hearing, the learned counsel of the applicant has drawn our attention towards annex. A/8, i.e. statement showing the pay drawn by the applicant with loyal increment. The contention of the learned counsel for the applicant is that the applicant was granted loyal increment on 01.06.1974 and his pay was raised from Rs. 292/- to Rs. 300/- after adding one loyal increment.

Since then he was regularly paid loyal increment but after revision of pay scale on 01.01.1986 as per the recommendations of 4th Pay commission the loyal increment was withdrawn which is established from the fact that on 24.04.1985, his pay was Rs. 485/- in the pay scale of Rs. 455-700 and on 01.01.1986 his pay was revised and fixed at Rs. 1480/- in the scale of pay of Rs. 1400-2300. The learned counsel drew our attention to the chart, annex. A/8 and submitted that the persons who were not loyal and whose pay was at Rs. 470/- as on 24.04.85, were also granted Rs. 1480/- in the revised scale on 01.01.86 and thus it is established that since 01.01.86 the applicant was not granted the loyal increment.

7. As against this, the contention of the learned counsel of the respondents is that the fact remains otherwise, as on 24.04.85 after adding loyal increment, the pay of the applicant was Rs. 485/- in the pay scale of Rs. 455-700/- The corresponding pay scale of Rs. 455-700 in the revised scale as per the recommendations of the 4th CPC was Rs. 1400-2300 and the correspondent pay Rs. 485/- was Rs.1480/- as such on 01.01.86, the pay of the applicant was fixed at Rs.1480/- including the loyal increment. It is altogether a different thing that due to fixation of pay in revised scale the employees who were getting Rs. 470/- p.m. in old scale were brought at par with the applicant and their pay was also fixed at Rs.1480/- on 01.01.86 in the revised scale. The learned advocate has also submitted that there is no provision to show separately the loyal increment as that of increment granted to those who underwent sterilization.

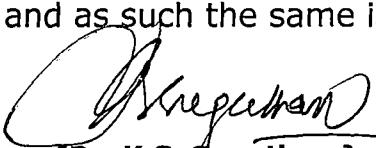
8. We have minutely perused the chart prepared and produced by the applicant (annex. A/8) and also perused the copy of the service book of the applicant (Annex. R/3) showing the fixation of pay of the applicant at various stages. After perusal of the Annex. A/8 and annex. R/3. we are satisfied that the applicant had been granted loyal increment and the same had been continuing even after the revision of pay of the applicant as per the recommendations of 4th CPC. It is a different matter that due to fixation of pay as per the revised scale of pay consequent to implementation of 4th CPC, the persons who were not drawing loyal increment and who were getting less pay i.e. Rs. 470/- as on 24.04.1985 were given equal fixation of pay as that of



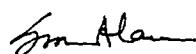
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the applicant. i.e. Rs. 1480/-. So we are not in a position to accept the argument of the learned advocate of the applicant that after implementation of 4th CPC report and his fixation of pay in the revised scale on 01.01.86, the loyal increment granted to the applicant was withdrawn. We are further of the view that there is no provision in the rules to show the loyal increment separately as shown in the case of persons who underwent sterilization and adopted small family norms.

9. In the result, we are of the view that this O.A has got no merit and as such the same is hereby dismissed. No costs.



{Dr. K.S. Sugathan }
Administrative Member.
Jsv



{ Justice S.M.M. Alam }
Judicial Member.

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दिनांक 12/12/15 के आदेशानुसार
मेरी उपस्थिति में दिनांक 5/2/15
को भाग-II द्वारा III तक किए गए।

अपुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकारण
जोधपुर नवांदी, जोधपुर