

1
18

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO.109/2008

Date of Order:19.08.2010

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER
HON'BLE Mr. V.K. KAPOOR, ADMINISTRATIVE MEMBER**

Bhanwar Lal Mundan S/o Shri Mohan Lal, aged about 61 years, R/o Ward No.7, Janta Colony, Mali Mohalla, Tehsil Ladnu, District Nagaur.

....Applicant

Mr. Kuldeep Mathur, counsel for applicant.

VERSUS

1. The Union of India, through the General Manager, North-West Railway, Jaipur (Raj.).
2. Divisional Railway Manager, North-West Railway, Jodhpur.
3. Senior Divisional Personnel Officer, North-West Railway, Jodhpur.

.....Respondents

Mr. Ravindra Singh, proxy counsel for
Mr. C.S. Kotwani, counsel for respondents.



ORDER (ORAL)
(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

The applicant was issued an order dated 22.10.2007 (Annexure-1) prior to seven days of his retirement. By the said order he was informed that his pay had been fixed wrongly from 1977 onwards. The facts of the case are that he was sent on deputation to construction organization wherein he got promotions also and hence he was drawing higher pay in the constructions organization. According to the respondents since the applicant was in receipt of higher pay in the construction organization, on his reversion to his parent cadre, his pay ought to have been fixed at the appropriate stage as if he had continued in his parent deptt.

2. On the contrary the learned counsel for the applicant relying on the judgments of Hon'ble Apex Court in ***Inder Pal Yadav & Ors. Vs. Union of India & Ors. reported in (2005) 11 SCC 301*** and ***Badri Prasad & Ors. Vs. Union of India & Ors. reported in (2005) 11 SCC 304***. contended that the higher pay drawn by him while on deputation ought to have been protected on his repatriation to his parent department. He also relied on another decision of the Hon'bel Apex Court in ***Abdul Qadir & Ors. vs. State of Bihar & ors. reported in (2009) 3 SCC 475***, the

Hon'ble Apex Court held that the amount which has been paid on the correct equitable principles cannot be recovered. Therefore, we hold that the decision of the Hon'ble Apex Court squarely covers the issues involved in the instant case and hence, the OA is allowed and we quash the order dated 22.10.2007 (Annexure-1).

The respondents are directed to release the pension and other benefits of the applicant on the basis of the last salary drawn by him before his retirement. All amounts to be paid to him on the basis of pay which he was actually drawing before his retirement within in a period of three months from the receipt of copy of this order. If the amount due is not released to the applicant within three months then the respondents are liable to pay interest at the rate of 15% per annum. The OA is allowed as above.no order as to costs.

V.K. Kapoor
(V.K. KAPOOR)
Administrative Member

K.B. Suresh
(Dr. K.B. SURESH)
Judicial Member

लिंगांक १२/२/१५
सेवी दयालियालि दे लिंगांक १२/२/१५
को १२/२/१५ दे लिंगांक १२/२/१५ ।

लिंगांक १२/२/१५
कोल्काता दे लिंगांक १२/२/१५
सोलापुर द्यायार्पीलि, जानू. १५