

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.169/2011

Jodhpur, this the 31st day of May, 2016

Reserved on 20.05.2016

CORAM

**Hon'ble Sh. U. Sarathchandran, Judicial Member
Hon'ble Ms. Praveen Mahajan, Administrative Member**

Bajrang Singh S/o Shri Khetu Singh, by caste Rajput, aged 70 years, R/o Om Colony, Ward No.21, Churu. Ex. Goods Driver under working respondent No.4.

.....Applicant

Mr. Dharmendra, counsel for applicant.

Versus

1. Union of India through the General Manage, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Bikaner.
3. Divisional Personnel Officer, North Western Railway, Bikaner.
4. Divisional Mechanical Engineer, North Western Railway, Bikaner.

.....respondents

Mr. Govind Suthar, proxy counsel for
Mr. Manoj Bhandari, counsel for respondents.

ORDER

Per Sh. U. Sarathchandran

Applicant is a 70 years old retired Goods Driver who was working in the respondent zonal Railway. He started his services under the respondents as Loco Cleaner on 24.12.1967. Thereafter he was appointed as Assistant Diesel Driver and then was promoted to the post of Shunter -Loco in 1992. The grievance of the applicant is that at the time of his promotion to the post of

despite making Annexure-A/2 representation on 26.01.1999 no action was taken by the respondents. Thereafter he took up the matter with the respondents on 11.10.1999 through the Union vide Annexure-A/3 correspondence which also was not answered by the respondents. After his retirement he approached the Labour Enforcement Officer (Central), Bikaner. The Labour Enforcement Officer (Central), Bikaner vide Annexure-A/4 order dated 04.10.2009 issued a direction to the respondents to fix the appropriate pay of the applicant. Thereafter he caused to be sent Annexure-A/5 lawyer notice dated 19.10.2010 and Annexure-A/6 reminder dated 27.12.2010. The respondents sent Annexure-A/1 reply to Annexure-A/6 reminder rejecting his prayer. Therefore he approached this Tribunal with this OA seeking relief as under:

- (a) By an appropriate order, writ or direction, the order dated 02.03.2011 (Annexure-A/1) passed by respondent No.3 may kindly be declared illegal and be quashed and set aside, and
- (b) After setting aside the above order, the respondents be directed to pay arrears of salary since 22.04.1992 till date along with interest @ 18% per annum on the amount of arrears, or
- (c) Any other order, which this Hon'ble Tribunal deems fit, just and proper in the facts and circumstances of this case, may kindly be passed in favour of the applicant.
- (d) Costs be awarded to the applicant."

2. Respondents filed reply statement contending that the OA is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. Accordingly to them the applicant was promoted to the post of Shunter-Loco on 21.04.1992 and therefore the cause of action for the applicant arose in long back 1992 but he has never raised any objection on the matter that he was being paid only Rs.1375/- instead of Rs.1410/- from 1992 to 1999.

Respondents state that the records relating to the payments of pay slips are not

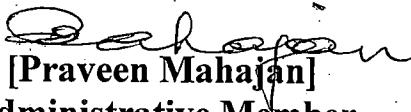
Instruction No.1666 a copy of which is marked as Annexure-R/3 which prescribes a period of only 5 years for preservation of the records relating to salary and pay order. Respondents have produced a comparative statement of pay of the applicant as could be gleaned from his service book, as Annexure-R/2. According to them as per the aforesaid records and Annexure-R/1 letter dated 12.02.1992 regarding his pay fixation applicant had been paid a salary of Rs.1410/- . According to respondents the contentions of the Railway were taken into consideration by the Labour Enforcement Officer (Central), Bikaner when Annexure-A/4 decision was taken on 04.08.2009. Respondents further state that since the claim of the applicant for his payments pertaining to the year 1992-1993 which is more than 15 years old, it is not possible to ascertain whether such payment had already been made to the applicant or not, at this stage, since no records are preserved.

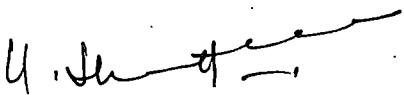
3. We have heard Shri Dharmendra learned counsel for the applicant and the learned counsel for the respondents. The grievance of the applicant is that at the time when he was promoted to the post of Shunter-Loco he was given only a short payment of Rs.1375/- though his salary was fixed as Rs.1410/- in the pay scale of Rs.1200-2040. No record was produced by the applicant to show that actually he was paid only Rs.1375/- which could have been established by the applicant by producing documents like pay slips or other relevant records. Instead, he simply affirms that he has been paid only Rs.1375/- and refers to Annexures-A/2 and A/3 as representation sent by him personally and also through the Utariya Railway Mazdoor Union to the respondents. In all these documents including the lawyer notice caused to be

there is no convincing record to show that he had indeed been paid only Rs.1375/- in the place of Rs.1410/- due to him in terms of his pay fixation. Respondents on the other hand could produce Annexure-R/1 pay fixation at the time of applicant's promotion to the post of Shunter-Loco in 1992 and also a compilation statement of his pay at different stages as extracted from his service book. Referring to Annexure-R/3 Railway Board Instructions the respondents state that they are not expected to preserve salary bills and pay orders details beyond the period of 5 years and hence no such record are available with them.

4. When the applicant makes a specific contention that he was actually being paid Rs.1375/- instead of Rs.1410/- it was his bounden duty to establish it by producing appropriate record. This has not been done by the applicant.

5. In the above circumstances, we hold that the applicant could not successfully prove the claims made in this OA. Hence we dismiss the OA. The parties shall suffer their own costs.


[Praveen Mahajan]
Administrative Member


[U. Sarathchandran]
Judicial Member