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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO. 132 OF 1992 (L)

Ajai Kumar Sinha Applicant

Versus

The Union of India, through the Secretary
Ministry of Railways, Rail Bhawan, New Delhi
and three others. Respondents

Hon'ble Mr. S.M. Prasad, Member (Judicial)

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for allowing the same benefits which have been allowed by this tribunal as per judgement and order dated 10.5.1991 passed by this tribunal in C.A. No. 79 of 1991 "R.P. Upadhye, Vs. Union of India and others (copy whereof is annexure-1); and for directing the respondents to allow to the applicant the pay scale of Rs. 1600-2600/- from the date of passing of the training i.e. since January, 1989 and for other consequential benefits.

2. The main grievance of the applicant appears to be that the applicant was selected for the post of Commercial Apprentice by the Railway Recruitment Board, Muzaffarnur in the year 1984; and was sent for training in the pay scale of Rs. 425-700/- and he was sent for training to Zonal training School, Muzaffarnur; and his training was completed in the month of January, 1989. After completion of his training he was posted as Commercial Inspector/Rates, Chief Commercial Supt. Office N.E. Railway, Gorakhpur. The applicant was allowed the stipend during the training period in the pay scale of Rs. 1320-1350/- (Revised); though the applicant was actually entitled to get the stipend in the pay scale of

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Rs. 1400-1440/- plus usual Dearness Allowances etc. The applicant was entitled to get the pay scale of Rs. 1600-2600/- w.e.f. the date of completion of the training but he was allowed the pay scale of Rs. 1400-2300/- on the post of Commercial Inspector. The Railway Board had issued an order on 15.5.87 in which it was mentioned that the Scheme of Recruitment of Traffic and Commercial Apprentices should continue and it was also mentioned therein that the pay-scale of Rs. 1600-2660/- will be allowed to the new Recruits. The applicant was allowed the pay scale of Rs. 1400-2300/- only, though the applicant was entitled to get the pay scale of Rs. 1600-2660/- from the date of completion of the training.

2. I have heard the learned counsel for the applicant and have thoroughly gone through the records of the case.

3. The learned counsel for the applicant while drawing my attention to the contents of the application and to the judgement dated 10.5.1991 passed by this tribunal in O.A. No. 79 of 1991 R.P. Upadhyaya Vs. Union of India & Others and the learned counsel for the respondent has urged that the respondents have not decided the representations of the applicant which are dated 27.4.1988, 21.11.1988 and 8.5.1989 (annexure- 5 to 7) and has urged that if the above representations are decided by the General Manager, N.E. Railway, Gorakhpur, (who is respondent No. 3) early by reasoned and speaking order, this may go a long way in giving substantial redressal to the grievance of the applicant.

4. Having considered all the view points and all the aspects of the matter I find it expedient that the

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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Misc. Application No. 885 of 1992

IN

Original Application No. 132 of 1992

Ajai Kumar Sinha Applicant

Versus

Union of India & Others Respondents

Honible Mr. S.N. Prasad, Member(I)

The respondents have inter alia, contended that they did not receive the duplicate copy of the Original Application, though notice in the above Original Application No. 132 of 1992 could be received in the office of the D.A.M. on a printed proforma notice on 20.7.1992, and as such the respondents (applicants in M.A.N. 885/92) were unable to understand the nature of the petition. It has further been stated that in view of having no further information the Railway Administration sent Vakalatnama in favour of Sri K.D. Nag, Advocate, in the month of August, 1992 and however, the Vakalatnama (i.e. Authority to appear in the case for N.E. Railway) was received by Sri K.D. Nag, Advocate on 25.8.1992 and as such Sri Nag could not represent the respondents and could not contest the above case; with the result, the above case proceeded ex parte and ex parte judgement was delivered on 24.8.1992.

2. In the objection filed by the opposite parties (Ajai Kumar Sinha), it has been contended, inter alia, that according to the applicants themselves, the notice was received on 20.7.1992 which was a clear intimation to the respondents about the hearing of the case on the ensuing date; but the respondents deliberately did not appear and did not contest the matter and as such the impugned judgement was passed on merit in absence of the respondents.

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3. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

4. This is noteworthy that from the perusal of the records and from the contents of the application of the applicant, ~~it is~~, it is apparent that notice was served on the respondents on 20.7.1992 and thereafter on the ensuing date, the case was heard and decided on 24.2.92 ~~exparte~~.

5. Thus, this being so and keeping in view and entire material on records and keeping in view the circumstances of the case, I find that ends of justice would be met if this Misc. Application No. 885/92 is allowed on payment of Rs. 250 (Rupees two hundred and fifty) as cost. The cost be paid to said Sri Ajai Kumar Sinha or his counsel by the applicant, within a period of one month from today, failing which the Misc. application No. 885/92 shall stand rejected. List this case for further order on 24.2.1993. A copy of this order may be given to the learned counsel for the applicants of this Misc. Application No. 885/92.

Member (J)

18.1.93

Lucknow Dated: 18.1.1993.

(RKA)

Recd copy
B. Bhawan
C/O K. D. N. A.
15-4-93

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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW.

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Original Application No. 132 of 1992

Ajai Kumar Sinha Applicant

Versus

Union of India through
the Secretary, Ministry
of Railways, Rail Bhawan,
New Delhi.

2. The Chairman, Railway
Board, Rail Bhawan New Delhi.

3. The General Manager, N.E.
Railway, Gorakhpur.

4. The Divisional Rail Manager
N.E. Railway, Lucknow

..... Respondents


Hon'ble Mr. S.N. Prasad, Judicial Member
Hon'ble Mr. V.K. Seth, Admn. Member

(BY HON. MR. S.N. PRASAD, JUDICIAL MEMBER)

The applicant has approached this Tribunal for allowing him the same benefits which has been allowed by this Tribunal in the judgment of O.A. No. 79 of 1991 R.P. Upadhyaya Vs. Union of India & others contained in Annexure-1 to this O.A.; and for allowing the pay-scale of Rs. 1660-2660/- from the date of passing of the training i.e. since Jan. 1989; and for allowing all consequential arrears *and benefits.*

2. Briefly, stated the facts of this case, interalia, are that the applicant was ^{selected} appointed for the post of Commercial Apprentice by the Railway Recruitment Board, Muzaffarpur in the year 1984; and was sent for training to Zonal training school, Muzaffarpur in the pay-scale

of Rs. 425-700/- and the training was completed in the month of Jan. 1989 and thereafter the applicant was posted as Commercial Inspector/Rates, Chief Commercial Superintendent Office, N.E. Railway, Gorakhpur; and was allowed the stipend during the training period in the pay-scale of Rs. 1320-1350/-. The applicant was actually entitled to get the stipend in the pay scale of Rs. 1400-1440/- plus usual dearness allowances etc.; and the applicant was entitled to get the pay-scale of Rs. 1600-2660/- w.e.f. from the date of completion of the training but he was allowed the pay-scale of Rs. 1400-2300/- on the post of Commercial Inspector; and the Railway Board had issued an order dated 15.5.1987 in which it was mentioned that the scheme of Recruitment of Traffic and Commercial Apprentices should continue. Further the qualifications were also directed to be continued as earlier. The quota from open market and Departmental candidates was also directed to be continued (vide Annexure-2 to this O.A.); and it was also mentioned in the aforesaid Annexure -2 that the pay-scale of Rs. 1600-2660/- will be allowed to the new Recruits. The applicant was allowed the pay-scale of Rs. 1400-2300/- only. The applicant was entitled to get the pay-scale of Rs. 1600-2660/- from the date of completion of the training; and the Madras Bench of the Hon'ble Tribunal has given a decision in the O.A. No. 322/88 and 463/87 on 2.12.89 in which it has been held that the benefits of the revision of pay and fitment on absorption (vide Annexure No. 1 to this O.A.) should be given to the applicant with consequential ~~xxx~~ monetary benefits



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(vide Annexure-3 to this O.A.); and the Railway authorities were not satisfied with the judgment contained in Annexure -2, hence they ~~have~~ filed a S.L.P. No. 7553 of 1990 before the Hon'ble Supreme Court of India, which has been dismissed on 23.7.90 (vide Annexure-10 to this O.A.); and the order dated 15.5.1987 will cause further injustice to the applicant as the newly recruited apprentices will get the more salary than the applicant and as such it will be violative of the Principle of natural justice and as well as salutary provisions of Article 14 & 16 of constitution of India. Since the application moved by the applicant before several authorities could not bring any result, the applicant has approached this Tribunal. for the relief sought for.

3. The respondents have filed the Counter affidavit with the contention, inter alia, are that the applicant was sent for training as Apprentice to the Zonal Training School, Muzaffarpur as per letter dated 8.10.1986 and during the training period the Commercial Apprentice was entitled to a stipend of Rs. 425-440/- plus usual dearness allowances. However the Commercial Apprentice was appointed after 1.1.86 and was getting stipend of Rs. 1320-1350/- plus D.A. and there is no scale of Rs. 425-700/-; and after the completion of training the applicant was posted as Rates Inspector in the pay-scale of Rs. 1400-2300/- in the office of the Chief Commercial Superintendent, N.E. Railway, Gorakhpur. It has further been stated that in future the Recruitment of the

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Commercial Traffic Apprentices will be made in grade of Rs. 550-750- (RS)/1600-2660 (RP) and has further decided that the apprentices after training were to be posted on working post as per procedure given in that letter; and ~~that~~ ^{the} prior to 15th May, 1987 there were separate and different mode of examinations for Commercial and Traffic Apprentices; and it has further been stated that the ~~seniority~~ ^{- be} of the applicant in any way will not be effected by the aforesaid order dated 15.5.1987. It has further been stated that the applicant has accepted the conditions and the terms of the Apprenticeship to which they are bound ~~get~~ ^{and}, in view of the above circumstances the application of the applicant is liable to be dismissed.

4. We have heard the learned counsel for the parties and thoroughly gone the records of this case.

5. The learned counsel for the applicant has argued while adverting to the pleadings of the parties and papers annexed thereto and while reiterating the view points as set out in the O.A. ~~has~~ stressed that from the perusal of Annexure-4 it would be obvious that S.L.P. filed in Hon'ble Supreme Court of India against the judgment and order passed by C.A.T. Madras Bench in O.A. No. 488/87 & 322/88 was dismissed; and ~~has~~ ^{instant} further argued that the matters involved in this ~~case~~ ^{case} are almost identical with the matters involved ^{in the aforesaid} in the ~~expressed~~ ^{expressed} O.A. No. 488/87 & 322/88; and has further argued that the matters involved in ^{~ said ~} the O.A. No. 79/91 R.P. Upadhaya Vs. Union of India

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and others and O.A. No. 152/90 Ram Sukh Vs. Union of India & others which ^{were} ~~was~~ decided by common judgment by this Tribunal on 10.5.91 ^{are a} ~~are~~ also almost identical and as such the benefits which were given to the applicant in the ~~afresaid~~ O.A. No. 79/91 R.P. Upadhaya Vs. Union of India & others be also given to the applicant of this case; and has further argued that the direction contained in Railway Board letter dated 15.5.1987 (contained in Annexure-2) cause further injustice to the applicant as the newly recruited apprentices will get ~~the~~ more salary than the applicant and as such it would not only be violative of the salutary provisions ^{Article} contained under 14 & 16 of Constitution of India ^{But} ~~and~~ also the principles of natural justice.

6. The learned counsel for the respondents has argued while drawing our attention to the pleadings of the parties and papers annexed there -to and while reiterating the view points as set out in the Counter affidavit has stressed that during the training period the Commercial Apprentice was entitled ~~was entitled~~ to a stipend of Rs. 425-440/- plus usual dearness allowances. However, ^{who} the Commercial Apprentice was appointed after 1.1.1986 and was getting stipend of Rs. 1320-1350/- Plus D.A., and after the completion of training the applicant was Posted as Rates Inspector in the pay scale of Rs. 1400-2300/- in the office of the Chief Commercial Superintendent, N.E. Railway, Gorakhpur and as such the applicant was not

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^{get in pay scale}
entitled to stipend of Rs. 1400-1440/- as claimed by him; and ^{by} has further argued that the Railway Board letter No. N.E. (NG) II/84/AC-3/15 (AIRF) dated 15.5.1987 ^{to} took a decision that in future the recruitment of Commercial Traffic Apprentices will be made in grade of Rs. 550-750 (RS)/1500-2660 (RP) and it has further been decided that the apprentices after training were to be posted on working post as per procedure given therein; and has further argued that there is no violation of principles of natural justice and there is no violation of provisions contained under article 14 & 16 of Constitution of India, as the applicant is not entitled to benefits of pay-scale ^{as claimed} ~~of the~~ ^{and} ~~applicant~~. In view of the above circumstances the applicant is not entitled to the relief sought for.

7. This is worthwhile making mentioned of this facts that a perusal of Annexure 3-& 4 is referred to above and read together reveals that the O.I.P. which was filed against the judgment and order passed by C.A.T. Madras Bench in O.A. No. 483/87 & 322/88 was dismissed and a perusal of Annexure-3 shows that the matters involved in this case ^{with the parties} which are almost identical in the aforesaid O.A. No. 483/87 & 322/88 of C.A.T. Madras Bench.

8. This is also significant to point out that the matters involved in the aforesaid O.A. No. 79/91 which was decided by this Tribunal as per order dated 10.5.91 (Annexure-1 to this O.A.) ^{and} are almost similar to the matters involved in this instant case, and a perusal of Annexure-1 shows that the

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aforesaid decision of Madras Bench was agreed by this Tribunal while passing the judgment in the aforesaid O.A. No. 79/91.

9. After pondering over all the aspects and keeping in view all the facts and circumstances of the case we find ourselves in agreement with the decision of this Tribunal in the aforesaid O.A. No. 79/91 (Annexure-1) and find it expedient that the ends of justice would be met if the applicant ^{of this case} is given the same benefits as that of the applicant of aforesaid O.A. No. 79/91.

10. Consequently, the application of the applicant is allowed and the respondents are directed to give the benefits of the higher grade of Rs. 550-750 /1600-2660/- to the applicant w.e.f. 15.5.1987 or the date of completion of training of the applicant which ever is later, with all consequential ^{other} ^{and related} benefits and the respondents are further directed to comply with the above directions within a period of 3 months from the date of receipt of copy of this judgment. No order as to costs.

Admn. Member

Lucknow, Dated 2/5/94

Judicial Member

2.5.94.

Girish/-