

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

**Original Application No.107/2006**

**Reserved on 02.12.2013.**

**Pronounced on ~~28.12.2014~~ 28.01.2014 J.C.**

**Hon'ble Mr. Navneet Kumar, Member (J)**

**Hon'ble Ms. Jayati Chandra, Member (A)**

Sri Krishan Lal Mukheja, son of Late Sri Jawala Das Mukheja, R/o 565/64, Pooran Nagar, Alambagh, P.s.- Krishna Nagar, Lucknow.

**-Applicant.**

**By Advocate: Sri A.P. Singh.**

**Versus.**

1. Union of India, through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Chairman, Railway Board, Rail Bhawan, New Delhi.
4. The Divisional Manager, Northern Railway, Hazratganj, Lucknow.

**-Respondents**

**By Advocate: Sri A. Mishra holding brief for Sri M.K. Singh.**

**ORDER**

**Pre Ms. Jayati Chandra, Member (A).**

Through this Original Application the applicant has sought the following relief(s):-

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(a). This Hon'ble Tribunal may kindly be pleased to set aside the impugned speaking order passed by O.P.No.3 as communicated vice letter dt. 27.10.05 issued by O.P.No.4 as contained in Annexure No.A-3 to the O.A.

(b). That the applicant's pay may be fixed under rule 1313 (F.R.-22) (I) (A) (I) with effect from 01.04.1988 as the applicant has actually shouldered with responsibilities of higher nature as Chief Draftsman (CO-ordination) from 1-4-1988. The applicant's case is similar to O.A. case No.2221 of 1989 (Ramesh Chandra Vs. Union of India & Others) already decided by The Central Administrative Tribunal New Delhi on 05.01.1993.

(c). That the applicant be paid arrears of pay with effect from 01.04.1988 and other retirements benefits with effect from 01.12.1995 as admissible under the rules.

(d). Cost of the application be awarded to the applicant."

2. The brief facts of the case are that the applicant was appointed as Junior Draftsman on 06.07.1956. He retired on 30.11.1995 from the post of Chief Draftsman (Co-ordination) in the grade of Rs.2000-3200. He was posted to the post of Chief Draftsman (Co-ordination) from the post of Chief Draftsman (Track) vide order dated 01.04.1988 (Annexure-A-4). The post of Chief Draftsman (Co-ordination) is a post carrying higher responsibility with 26 employees under his supervision whereas the post of Chief Draftsman (Track) has a lesser responsibilities of 9 employees under his supervision. Through his OA he has sought the benefit of pay-fixation in accordance with the Railway Board Rule 1313 (F.R.-22) (I) (A) (I). The applicant had earlier filed an O.A.No.496/2001 seeking similar relief but the same was disposed of at the admission stage with a direction to the respondents to decide his application seeking the same relief.

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3. In compliance of the order dated 12.10.2004 passed in O.A.No.496/2001, the respondents have passed the impugned order dated 27.10.2007 by which they have rejected his claim for pay-fixation. Further, he had filed a C.C.P. No.66/2005, which was also disposed of. Hence, the applicant has filed the present O.A.

4. The respondents have refuted the claim of the applicant by filing counter reply stating therein that the matter is highly time barred. The applicant has sought fixation of his pay w.e.f. 1988 till the time of his retirement on 30.11.1995 after a delay of so many years. Coming to the merits of the case they have stated that the Railway Board letter dated 24.05.1999 (RBE No.119999) with regard to fixation of pay under rule 1313 (FR-22) (1) (a) (i) R-II applies to such appointments to a promotional post carrying identical scale of pay-scale as the feeder post. Thus, the promotional post <sup>must s.d.</sup> ~~not carries~~ higher responsibilities and the appointment to such a post involves satisfying certain conditions for promotion. Moreover, the said rule has clearly mentioned certain specific categories of posts which also do included the post of Chief Draftsman.

5. The applicant was promoted to the post of Chief Draftsman (Track) in the pay-scale of Rs.2000-3200 on 26.6.1980 on temporary basis against a vacant post. His promotion was regularized w.e.f. 18.10.1985 and he was granted stagnation increment w.e.f. 01.01.1994 in the pay-scale of Rs.2000-3200. The post of Chief Draftsman (Co-ordination) is a post in same pay-scale, which is not filled up by appointment through promotion. At the time

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of retirement the applicant was drawing the highest salary available in the cadre of Chief Draftsman in the pay-scale of Rs.2000-3200.

6. The applicant has filed Rejoinder reply rebutting the Counter Affidavit wherein he has raised reiterating the points as in the OA stating that he was the senior most Chief Draftsman as such he was posted as Chief Draftsman (Co-ordination) from the post of Chief Draftsman (Track). The specific provisions for fixation of pay Rule 1313 and FR-22 mentioned 11 categories whereas many other categories are omitted. Although, the job responsibilities in 2 different pay-scales are totally different and the post carrying higher responsibilities deserves to be treated at par with the named category under Railway Board Rule 1313 (F.R.-22) (I) (A) (I).

7. We have heard the learned counsel for both the parties and perused the entire material available on record.

8. It is an admitted fact that the applicant had been working as Draftsman and he was retired on 30.11.1995 from the post of Chief Draftsman (Co-ordination) in the then available highest pay-scale of Rs.2000-3200. The applicant has sought the implementation of Railway Board Rule 1313 (F.R.-22) (I) (A) (i). This rule has been examined. It is seen that the pay-scale applies to only those posts which include promotional post and feeder posts. The method of appointment from one post to the

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other post involves an act of selection (written exam with or without viva-voce, Trade test or Aptitude test, etc.). A scrutiny of the posting order dated 1.4.1988 does not demonstrate that that said posting is in the nature of promotion from one post to the other. Moreover, the Railway Board Rule 1313 (F.R.-22) (I) (A) (I) has specific 11 categories of the posts which are different from the cadre of Draftsman. Further, in para-4 of the said rule, it is stated "Any other categories fulfilling the criteria mentioned in para-1 above come to the notice of the individual Railway Administration specific proposals containing the relevant details may be sent to Railway Board for further examination", which makes it abundantly clear that the provision of the said order are to be applied to only to the 11 categories as mentioned in the body of the Rule.

9. In view of the above, the applicant has failed to establish his case and we find no reason to interfere with the impugned order as passed by the respondents in compliance of the order dated 27.10.2005. Therefore, the O.A. lacks merits and is liable to be dismissed. No order as to costs.

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**(Ms. Jayati Chandra)**  
**Member (A)**

*Navneet Kumar*  
**(Navneet Kumar)**  
**Member (J)**

Amit/-