

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

O.A.No. 643 of 1996

DATE OF DECISION: FEBRUARY 24th, 2004.

L.D. Shukla (Lachhan Dee Shukla) S/o Kuldip Shukla,
Ex-TER (Electrical Driver), Bhanbad, Eastern Railway,
resident of village Bishunpur Titraha via Bidupur,
District - Vaishali.

.... Applicant

By Advocate : Shri M.P. Shukla.

Vs.

1. Union of India through Secretary, Railway Board,
Rail Bhawan, New Delhi.
2. Divisional Railway Manager, Eastern Railway,
Dhanbad.

.... Respondents.

By respondents: Shri Shekhar Singh

C O R A M

Hon'ble Smt. Shyama Dogra, Member (J)

Hon'ble Shri Mantralay Jha, Member (A)

O R D E R

By Shyama Dogra, M(J):- This Original Application has
been preferred by the applicant for direction to the
respondents to remove anomalies created in fixation of
pay of the applicant at par with his juniors.

2. Briefly, the facts, as enumerated by the
applicant, are that initially the applicant was
appointed in the year 1950 in the department of TF (R),
Dhanbad and retired from service on 31.10.1988 as
ex-electrical driver. The pay of the applicant on

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promotion to the post of driver Grade A was fixed at Rs. 1600/- whereas pay of one G.P. Chakravarti who was junior to the applicant was fixed at Rs. 1720/-, although both of them were promoted as Grade A driver on the same date, which has resulted in anomaly in fixation of pay of the applicant.

3. The applicant has earlier also preferred one OA bearing No. 324 of 1995, and the same was disposed of by this Court while giving direction to the respondents to pass appropriate order on the representation of the applicant while passing reasoned and speaking order. Annexure 4 is the out-come of the said direction, whereby the applicant's case has been rejected on the ground that said G.P. Chakravarti has been granted one additional increment in the year 1974, whereas the present applicant was not granted ~~is~~ any additional increment for the ^{not} purpose of being loyal worker as per scheme formulated by the respondents at that relevant point of time.

4. The respondents have filed written statement as well as additional written statement and supported the order vide Annexure A/4 on the ground that the pay of the applicant was fixed at Rs. 1520 p.m. with effect from 1.1.1986 as per 4th Pay Commission, and thereafter his pay was fixed at the rate of Rs. 1650/- and not 1600/- whereas the pay of G.P. Chakravarti was fixed at the rate of 1800/- and not Rs. 1720/- because of the

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reasons of the SPFI C.P. CPK/AV/AV was given the penality
of one day's wages to become active in the decolonization
market for the participation in the strike of
1954, whereas the application had been rejected in the
case of strike, therefore, he was not given the
penalty.

The second basis of the classification of the C.P.
application is that the CPK/AV/AV never submitted
any objection in terms of the financial position
of the SPFI C.P. SPFI C.P. was given 25 days
whereas the CPK/AV/AV was given 10 days.
Therefore, the application was rejected in
the boxers case. The subsequent case of the
SPFI C.P. was given 10 days of strike leave
with deduction of pay for the period between
the application of the boxers and the
intercession application of the SPFI C.P.
In reply to the question of the application
of the SPFI C.P. was submitted that since the
Kumaon only Hindi language, therefore, if was incomplete
upon the consequence of issues of those circumstances in Kumaon
in pursuance of the following clause 5 and 6 in the
circumstances, therefore, non-participation of Kumaon was not
of the said circumstances please consider giving instructions to the
spouse of the application to the pay

reason that Shri G.P. Chakravarti was given the benefit of one advance increment since he was declared as loyal worker for not participating in the illegal strike of 1974, whereas the applicant had participated in the said strike, therefore, he was not given the said benefit.

5. The second plea of rejection of the claim of the applicant is that the applicant has never submitted any option in terms of the Railway Board's Circular/letter dated 29.11.1978 and 16.3.79 after the 3rd Pay Commission, whereas Shri Chakravarti has submitted his option. Therefore, the stepping up of pay is not applicable in the applicant's case. The respondents have annexed the said copy of circular vide Annexure R-1 and R-2 along with details of fixation of pay being prepared on the representation of the applicant vide Annexure R-3 along with their additional written statement.

6. In reply to these circulars, the applicant has filed rejoinder and submitted that since the applicant knew only Hindi language, therefore, it was incumbent upon the respondents to issue ~~in~~ these circulars in Hindi in pursuance of the relevant clause 2 and 4 in these circulars. Therefore, non-publication of Hindi version ^{in prejudice} of the said circulars have caused grave injustice to the rights of the applicant for fixation of his pay



accordingly, as he has failed to give his option at the relevant point of time, as he was not aware of the circular. Even the respondents have not submitted the Hindi version of the circular with the written statement, which clearly shows that they have not followed their own instructions in this regard.

7. We have heard the learned counsel for the parties and gone through the record. After perusal of these circulars, it is found in clause 2 and 4 thereof that "Hindi version of the circulars will follow." However, the respondents have not placed on record Hindi version of these circulars before the Court. Even they have not refuted the averments being made by the applicant in his rejoinder/ reply to the supplementary written statement. After perusal of Annexure R-1 and averments made in the written statement, it is found that the claims of the applicant has been rejected on two grounds, first is that said Shri G.P. Chakravarti being loyal worker has got one advance increment which has resulted into increase of ~~ss~~ stepping up of his pay and secondly for non-submission of his option in pursuance of these circulars referred to hereinabove.

8. So far as stepping up of pay of Chakravarti on account of advance increment being paid to him being loyal worker is concerned, the same is not disputed by the applicant. He has also not disputed

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that he was also a loyal worker, therefore, he was not entitled for the said increment.

9. After perusal of Annexure -4 which is an order passed by the concerned authority in pursuance of the order passed by this Court in OA 324 of 1995, we find that very reasoned and speaking order has been passed by the authority. Therefore, we find no reason to interfere in the matter at this stage.

10. So far as plea of the applicant with regard to non-publication of Hindi version of the circular is concerned, it is not clear that whether the applicant has raised this objection in his earlier OA or not, and the respondents have also not placed on record copy of the Hindi version of the said circular. Therefore, this Court is not in a position to deal with this point, and the liberty is given to the applicant to raise this point before the appropriate authority if he so desires.

11. In view of these facts and circumstances of the case and in view of the fact that reasoned and speaking order has been passed by the authority concerned, we find no reason to quash that order, and the same is hereby upheld.

12. In terms of these observations and directions as above, this OA is rejected and disposed of accordingly, with no order as to costs.

/CBS/

(MANTRESHWAR JHA) M(A)

Shyamal
24.02.04
(SHYAMA DUGRAH) M(J)