

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH: PATNA

Registration No. RP-6 of 1997

(Arising out of OA-308/96)

(Date of order 18.8.1998)

1. The Union of India,

Through the Secretary, Railway Board,  
New Delhi.

2. The Chief Personnel Officer,

Eastern Railway, Calcutta.

3. The Divisional Personnel Officer,

Eastern Railway, Malda . . . . . Petitioners

By Advocate: Mr. G. Bose.

versus

P.K. Sinha, S/o Late Sri B. Lal,

Resident of Village Keshopur, Kayastha,

Tola, Police Station Jamalpur,

District Munger . . . . . Opp. Party

By Advocate: Mr. R. N. Tiwary.

Coram: Hon'ble Mr. Justice V. N. Mehrotra, V.C.

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Hon'ble Mr. Justice V. N. Mehrotra, V.C.

This Review Petition has been filed challenging the order dated 24.10.1996 passed by Hon'ble D. Purkayastha Member (J) in OA-308 of 1996. By the order in question the OA was allowed and the respondents were ordered that the fixation of pay of the applicant of the OA be done notionally upto the period of filing of representation on 3.12.1995 and the applicant be not given any arrears of pay before the period of 3.12.1995. However, he shall be paid arrears of salary as per fixation with effect from 3.12.1995. It was also directed that the fixation

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of pay of the applicant be done within three months from the date of passing of the judgment.

2. The applicant had challenged the fixation of his pay on his appointment to the lower pay scale of Rs.950-1500 against the post of Ticket Collector from the higher time scale of pay of Rs.1200-2040 against the post of Clerk Grade-I. After examining the relevant provisions of the Indian Railway Establishment Code and also Fundamental Rules, the Hon'ble Member passed the above mentioned order.

3. In this R.A. it has been contended by the learned counsel for the present applicant, Union of India & Others (respondents in OA-308 of 1996) that the Hon'ble Member did not consider the order dated 14.8.1990, Annexure-2, which is by the Chief Personnel Officer and addressed to the Divisional Railway Manager, Eastern Railway, Mughalsarai of persons <sup>who</sup> regarding the mode and method of fixation of pay/who were selected for the post of Ticket Collector in the Grade of 950-1500. According to this letter it was provided that in those cases where the existing pay of the employee appointed as Ticket Collector is found to be higher, the same should be treated as personal pay and be absorbed in future increments subject to maximum not exceeding the pay of Rs.1500/- per month. It is thus argued that there is an error apparent on the face of the record due to non-consideration of this relevant document.

4. The learned counsel for the respondents (applicant in OA) has argued that the Hon'ble Member has considered various rules regarding the fixation of pay and after considering the same has given his finding. It has further been argued that the clarification, Annexure-2, is only a letter sent by Chief Personnel Officer, which could not over-ride the rules framed by the Railway Board. It is thus contended that there was no error apparent on the face of the record and so there was no ground for taking a

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view which <sup>is</sup> different from the view taken by the Hon'ble Member.

5. I have considered the arguments advanced by the learned counsel and perused the record of the case. The scope for interference with the order in question of this Review Application is very limited. The order passed by the Hon'ble Member cannot <sup>be</sup> /interfered with merely because a different view could be taken in the matter. It is true that in the order dated 24.10.1996 no specific reference has been made regarding Annexure-2 of the OA. However, the relevant rules such as Rule 1313, Rule 1305, Rule 1331 have been considered <sup>in</sup> /detail and after examining the same, the order in question has been passed. Annexure-2 is, as mentioned by the learned counsel for the respondents, a letter by the Chief Personnel Officer, clarifying the mode under which pay is to be fixed. The same, however, cannot over-ride the rules made by the Railway Board which have been considered in the judgment dated 24.10.1996. In the circumstances, I am unable to hold that there was <sup>an</sup> error apparent on the face of the record, so there was no sufficient ground for reviewing the order dated 24.10.1996.

6. The learned counsel for the applicant in this Review Application has also raised the plea about limitation. That plea was however, considered in detail in the order dated 24.10.1996 and so there is no reason to re-examine the matter again in this Review Application. In view of the above facts this Review Application has no force and it is hereby dismissed.

  
(V.N. MEHROTRA)  
VICE-CHAIRMAN