

510

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

T.A. 1378/82 W.P. No. 14232/84

CAUSE TITLE ..... OF .....

NAME OF THE PARTIES..... T.C. Shukla .....

..... Applicant

Versus

..... C.D. E. Rao ..... Respondent

Part A, B & C

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated..... 02/5/12

Counter Signed.....

B/G destroyed on 09-5-12

Section Officer / In charge

m  
Signature of the  
Dealing Assistant

## CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

## FORM OF INDEX

S.A./T.A./R.A./C.C.P./ No.

1378  
19/12/84

Review No. 262/90

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3. Any other orders :- — x —
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(T.A. No. 1378 of 1987) J.C. Shukla  
vs - Horbe Dr. D. K. Agarwala, J.H. (C.A.T.)  
Loknayak & another (Page 1- 35 to 37)  
DISMISSED vide order 21-1-1992.

D.Y. Registrat

Supervising Officer

Dealing Clerk

Note :- If any original document is on record - Details.

Dealing Clerk  
29/12/98

V.K. Mishra

(1)

ANNEXURE - A

CAT

X  
✓

CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow  
Opp. Residency, Gandhi Bhawan, Lucknow  
\*\*\*\*\*

INDEX SHEET

CAUSE TITLE 741378/87 of 19 C.W. Review No 262 of 90(L)  
CWP 14232/84

NAME OF THE PARTIES

S. C. Shukla Applicant

Versus

Union of India Respondent

Part A, B & C

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(3) 21 (4) A3

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD.

\*\*\*

Group A 13

I N D E X

IN

14232

CIVIL MISC. WRIT PETITION NO. OF 1984.

Distt- Jhansi

J.C.SHUKLA ... ... ... ... PETITIONER

VERSUS

UNION OF INDIA AND ANOTHER ....OPPOSITE PARTIES.

Sl. No.	Particular of papers	Pages.
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5.	Annexure '4' true copy of letter dt.30.7.84 to G.M.	19 -21.
6.	Annexure '5' true copy of Railway Board letter dt. 14.2.80	22 -22.
7.	Annexure '6' true copy of order of G.M. dt.30.3.75 19-11-1975	23 -25.
8.	AFFIDA VIT	26 -27.
9.	VA KALAT NAMA	28 -28.

Dated:

September , 1984.

S.C. Varma  
Adv.

( S.C.VARMA )  
COUNSEL FOR THE PETITIONER.

Amers ave 3

30-6-84

7/31

1/31

5/20 & 2

8/0 30-9-84

16

26/9

5364

Memo

500 Stamp Rs 100/-  
Intime upto Within 90 days left to 30-9-84

Stamp Sufficient

Paper filed

Cognizable by Single DB.

Judge

Date

26-9-84

Stamp Report

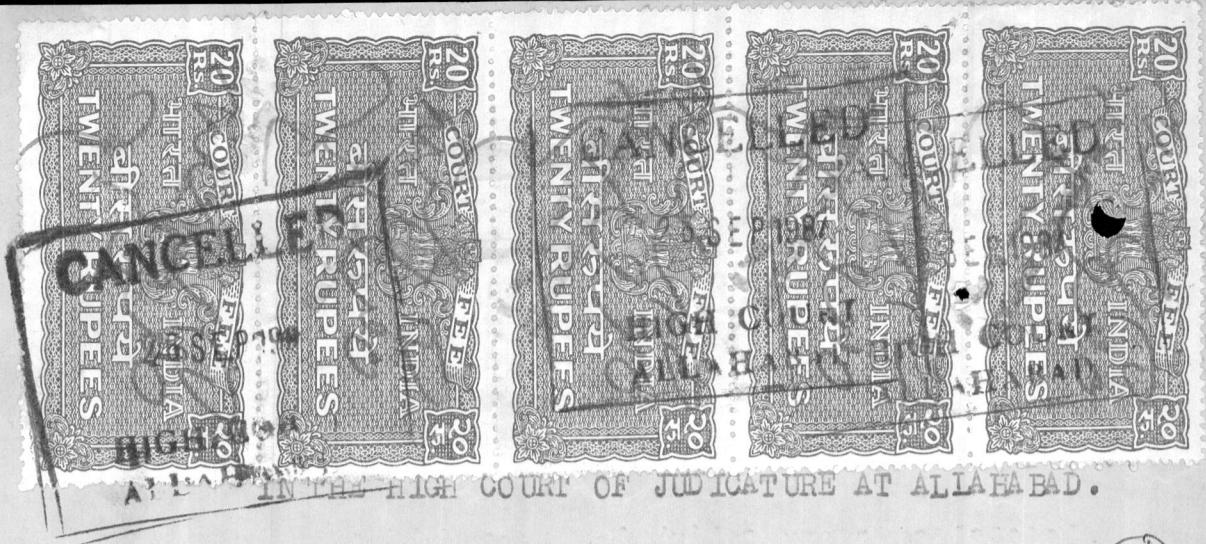
OZ

Hon AN Varma J.  
Hon OP Mehta

Shri P. N. Katju, learned  
counsel for the respondents,  
prays for and is granted  
a month's time to file a  
counter-affidavit. List this  
petition for admission  
immediately on the expiry  
of a month.

2  
Sept 27 1984.

M G



\*\*\*

14032

OF 1984.

Under Article 226 of Constitution of India.

DISTRICT - Jhansi

179.50  
10/10/84

J.C.Shukla resident of 317 Maulviganj, Mahesh  
Prasad Street, Lucknow-226018.

... ... ... PETITIONER.

VERSUS

1. Union of India/Railway Board, Ministry of Railways, Rail Bhawan, New Delhi through Secretary Establishment.
2. General Manager, Central Railway, Head Quarter Office, Bombay B.T.-400001.

... ... ... OPPOSITE PARTIES.

To

The Hon'ble the Chief Justice and His  
Other Companion Judges of the aforesaid Court:

The humble petition of the petitioner  
named above Most Respectfully Showeth as under:

1. That the petitioner was confirmed as Foreman 'A' / Shop Superintendent w.e.f. 1st November 1969 on Central Railway vide their Official



ज्ञात दिव्य वर्षा शुभकाल

## इलाहाबाद स्थित उच्च न्यायालय

सन् 19

84

का

Writ

संख्या

14232

J. C. Shukla प्रति Union of India

दिनांक	कार्यवाहियों की प्रगति और नेतृत्व आदेशों के सम्बन्ध में टिप्पणी	दिनांक, जिसके लिये मामला स्थगित किया गया
1	2	3
27-9-84	<p>Hon. A. N. Varma J. Hon. O. P. Mehrotra J-</p> <p>One month time granted for e. A. List thereafter for admittance.</p> <p><u>SLZ</u></p>	

## ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

(SK)

(6)

Reg. NO. 1378 OF 1987

J. C. Shukla vs. Union of India

SL NO of order	Date of order	ORDERS	WITH	SIGNATURE	Office Notes as to action (if any) taken on order
					<p><u>Office Reptr</u></p> <p>W.H.O. 14232/87    (Transferred from the    High Court of Madras    at Madras    C.A not filed.</p> <p>Notice issued to all    the doctors of    1-2 ft.</p> <p>1. All the home op    been read back    as yet no.</p> <p><u>Govt</u>  <u>25/1/88.</u></p>
2-2-88		<u>D.R (J)</u>			<p><del>the</del> Applicant is    present in person    but up with fresh    service report on    29-3-88.</p> <p><u>Govt</u></p> <p><u>D.R (J)</u></p>

NO. of order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order
	29.2.00	<p><u>DR.</u></p> <p>Applicant is present. No counter affidavit has yet been filed. Let the counter affidavit be filed by 6.4.00</p> <p><u>DR.</u></p>	
	6.4.00	<p><u>DR.</u></p> <p>Applicant is present. Counter affidavit and an application have been filed today.</p> <p>Respondent affidavit may be filed by 20.4.00</p> <p><u>DR.</u></p>	
	20.4.00	<p><u>DR.</u></p> <p>No one appears for applicant.</p> <p>Sri P. N. Kelgi stated that he has filed an application along with counter that petition has become unfructuous.</p> <p>Let the court for hearing on 25/5/00. DR, the main file remains if any may be filed</p> <p><u>DR.</u></p>	

T.A 1378-87 ⑧

25.5.88 Due to sitting of Ceoile Bench  
at Lucknow the court is not  
available hence the case is  
adj. to 20.7.88 for hearing. B  
8/11

20/7/88

Hon. D.S. Misra - Am.

Hon. G.S. Sharma - JM

On the request -  
received on behalf of  
the applicant's counsel, the  
case is adjourned to  
23/9/88 for hearing. Shri  
P.N. Katju is present for  
the respondents.

be  
Am.

44

23-9-88 No sitting. Adsts 25-11-88

25-11-88 No sitting Adsts 16-12-88.

16-12-88 No sitting Adsts 16-3-89

26/11

10-3-89 D.R

This file has been received  
from C.A.T. Hyderabad Bench. The  
case is put up on 27.3.89  
before Deputy Registrar.

Am  
D.R

27/3/89

DR

(9)

None present for the parties.  
Rejoinder not filed so far. Put up  
on 26/4/89 for further orders. ~~order~~  
~~Opposite Register~~

DR

DR

OR

Counsel for  
applicant has not  
filed any rejoinder so far.  
No one has represented  
for either party at  
Circuit Bench, Lucknow.  
Case is submitted  
for orders.

Aug  
25/4

Hon. D. S. Misra, A.M.  
Hon. D. K. Agarwal, J.M.

Applicant in  
possession seeks time to  
file rejoinder affidavit. He may  
do so within a week.

list it for final hearing  
on 19th July, '89.

✓  
A.M.

J.M.

26.4.89  
B.M.

19.7.89

No sitting. Adj. to 10.0.89  
for order.

h  
Doc

OR  
Counsel for the applicant  
has filed rejoinder  
duly served on the  
opposite party.

~~And on 26th April 126/89 (U)~~  
~~filed by the learned counsel~~  
~~for the opposite party for dismissing~~  
~~the petition.~~

Two application Number  
C.M. No. 126/89 (U) and  
C.M. No. 127/89 (U) filed  
today by the learned counsel  
for the applicant for objections  
in reply to the application  
& application for conditit  
respectively.

Submitted for order

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

(10)

(18)

(J.M.)

REGISTRATION No. CM.Ap.No. 127/89(L)  
In of 198

T.A. No. 137/87 (W.P.No. 14232/84)

APPELLANT  
APPLICANT

J.C. Shukla

DEFENDANT  
RESPONDENT

VERSUS  
Union of India & ors

Sl umber of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
10/8/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>Mr. R.C. Singh learned counsel for the applicant is present.</p> <p>This is an application for amendment of the petition. Allowed, as no objection has been filed by the respondents. Let the amendment be incorporated within a week hereof.</p> <p>Respondents may file supplementary counter affidavit, if any, within two weeks to which the applicant may file <del>re</del> supplementary rejoinder within one week thereafter.</p> <p>List this case before Single Member Bench, on <u>8-9-89</u> for hearing.</p> <p><i>J.M.</i></p> <p>(sns)</p>	<p>Amendment made today</p> <p>L 10/8</p> <p>As directed by the Court's order dt. 10.8.89, the applicant has incor- porated amendment but no supplementary Counter has been filed.</p> <p>Submitted for hearing</p> <p>7/7</p>
8.9.89	<p>Hon. Justice K. Nelli, V.C. Hon. K. J. Ramam, A.M.</p> <p>List this case for hearing before a Single Member Bench on 19.9.89.</p> <p><i>W.R.</i> A.M.</p> <p><i>V.C.</i></p>	<p>As directed by the Court's order dt. 10.8.89. no supplementary Counter has been filed - submitted for hearing</p> <p>L 10/8</p>

(V)

Hon' Mr. D.K. Agrawal, J.M.

19/9/89 Shri R.C. Singh, Counsel for the applicant is present. None is present for the respondents. Counsel for the respondents has submitted an application for adjournment. Shri G.C. Tewari, Office Superintendent II, Central Railway, Jhansi is present for the purpose of Pairvi on behalf of respondents. The case is adjourned to 13-10-89. It may be <sup>made</sup> clear that the case will not be adjourned on the said date whether or not the respondents are <sup>re</sup>presented. This order has been passed in the presence of the aforesaid representative of the Dpa rtment.

Dep  
J.M.

(sns)

13-X-89 No Sitting. Adj. to 7-11-89.  
Both the counsel are present.  
Aded  
int Katju  
13-X-89

h  
13/10/89

7-11-89 Hon' Mr. D.K. Agrawal - JM  
Hon' Mr. K. Obayya - AM

OR  
Case is submitted  
for hearing.

6/11/89

Mr. R C Singh Adv for the applicant and Mr. PN Katju Adv for the respondent are present. On the request of both the counsel the case is adjourned to 05/12/89 for hearing.

B  
AM

Dep  
JM

OR  
Submitted for hearing

4/12

Hon. Justice K. Nath, V.C.  
Hon' Mr. K. J. Raman, AM

(On the request of both the parties, the Case is adjourned to 23-1-90.

LMR  
AM

gn  
V.C.

TA 1370 (0717)

(12)

SH/2

23/3/90 No Setting Adj. to 13.3.90  
Both the parties are present

SR  
S. P. H

L  
12/3/90

13/3/90 Hon. Mr. D.K. Agrawal, O.M  
Hon. Mr. K. Obayya, A.M

Shri R.C. Singh, for the  
applicant and Shri P.N. Kaurjoo,  
for the respondents are present.

Civil Misc. Application No. 141 & 142/90  
has not been filed by the respondent. Keep  
them on record, whatever words worth  
they may have. Arguments heard,  
Judgement Reserved.

Received

AM

4/4/90

AM

Dee

O.M

6/4/90

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

X/10  
S/6

CIRCUIT BENCH AT LUCKNOW

T.A. No. 1378/87 (T)

( W.P. NO. 4232/84)

J.C. Shukla	.....	Petitioner.
Union of India & Others	.....	Versus
Hon. Mr. D.K. Agrawal, J.M. Hon. Mr. K. Obayya, A.M.	.....	Respondents.
		(By Hon. K. Obayya)

The writ petition No. 4332/84 filed in the High Court of Judicature at Allahabad, has been received on transfer under Section 29 of the Administrative Tribunal Act, 1985 and registered as No. 1378/87 (T). The request of the petitioner in this W.P. is for payment of the special pay and fixation of pay as per rules, for the period 1.8.1972 to 16.10.1976 and consequential benefits with interest.

2. The facts of the case are not much in dispute. The petitioner was employed in the Central Railway and was confirmed in the post of Foreman-A w.e.f. 1.11.1969 on the scale of Rs. 450-570. During the period 22.11.1967 to 15.10.1976, he was transferred on deputation to Northern Railway to work as C.W. Inspector in R.D.S.O. at Lucknow on same scale and grade. He reverted to his parental Railway namely Central Railway thereafter and retired on superannuation on 30.11.1979, as Assistant Works Manager Class-II.

3. His case is that while he was on deputation at Lucknow, Railway Board vide its letter No. PC-72/RLT-69-2 dated 12.3.1973 issued orders ~~accepting~~ <sup>accepting</sup> ~~excepting~~ Railway Labour Tribunal awarding and approving special pay of Rs. 150/- p.m.

to the post of Foreman-A which post was also redesignated as Shop Superintendent w.e.f. 1.8.1972. As he was confirmed <sup>as</sup> on Foreman-A, he was entitled for this special pay but for his deputation he would have drawn this amount from 1.8.1972.

4. The scale of Foreman-A (Shop Superintendent) was also revised from Rs. 450-570 to Rs840-1040 w.e.f. 1.1.1973.

He is entitled for this scale. He made representation to the authorities in this regard but they were rejected,

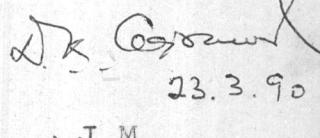
5. The respondents in their counter has stated that the applicant is not entitled for the special pay as he was not holding the post of Foreman-A on the crucial date namely 1.8.1972 and that according to the Rule-2003 (23) of the Indian Railway Establishment Code Vol-2 no protection of salary can be given to him as he was away on deputation. However, it would appear that the matter was taken up by the General Manager of the Northern Railway (Annexure -II) and the case was favourably considered. The Railway Board by the order dated 19/20.8.1986 passed an order approving fixation of salary of the petitioner in the Grade of Rs. 840-1040 w.e.f. 1.1.1973 taking into consideration the special pay of Rs. 150/- p.m. his claim for arrears from the date 1.1.1973 to 15.10.1976 amounting to Rs. 8102.65 was also paid to him. This fact is admitted by the Petitioner in Para-10 of the Rejoinder.

6. We heard the counsel for the parties. The learned counsel for the respondents said that in as much as claim petition of the petitioner has been settled the petition has become infructuous. The learned counsel for the Pet-

petitioner, however, stated that arrear from ~~1.8.1972~~ to 1.8.1972 to 31.12.1972 were not paid and he also urged for payment of interest for the delay in payment.

7. We have gone through the record carefully. Record brings out that the case of the petitioner was considered promptly and sympathetically and then it involved relaxation of rules <sup>and Board</sup> ~~of~~ Railway orders. naturally some delay <sup>was</sup> is inevitable and the orders were finally issued <sup>with</sup> to the sanction of the president.. We do not see any justification for award of interest. However, we are of the view that the petitioner is entitled for special pay of Rs. 150/- p.m. attached to the post of Foreman-A w.e.f. 1.8.1972. We also notice that in the case of one Shri. N.N. Hanif of Northern Railway Frontier Railway the benefit of special pay was given W.e.f. 1.8.1972 in similar conditions (Annesure-5) We consider it would be fair and just that the applicant also is extended the same benefit, accordingly we order that the applicant be paid a special pay of Rs. 150/- for the <sup>✓</sup> balance period i.e. 1.8.1972 to 31.12.1972 with other consequential benefits arising out of this, if any. This petition is disposed of as above without any order as to costs.

  
A.M.

  
J.M.

Dated 23 March 1990

  
P

(16) A.SI W

1/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,  
LUCKNOW.

Review Application No. 262 of 1990. (L)

J.C. Shukla, aged about 69 years, son of Late Pt.  
Durga Charan Shukla, resident of 317, Maulviganj,  
Lucknow.  
... Applicant.

In re:

T.A. No. 1378 of 1987

J.C. Shukla, son of Late Pandit Durga Charan Shukla,  
r/o 317, Maulviganj, Lucknow.

... Petitioner

Versus

1. Union of India / Railway Board, Ministry of Railways, Rail Bhawan, New Delhi, through Secretary Establishment.

2. General Manager, Central Railway, Headquarter Office, Bombay, V.T.

... Opp. Parties.

Application for review of the judgment and order dated 23.3.1990 passed in T.A. No. 1378/87(T)(W.P. No. 4232/1984) by Hon'ble Mr. D.K. Agarwal, J.M., and Hon'ble Mr. K. Obayya, A.M.



Jagdish Charan Shukla

The applicant, abovenamed, most respectfully  
fully begs to state as under:-

1.

That the applicant was  
Foreman 'A' w.e.f. 7.4.1961.

(Workshop at Jhansi) from where his services were transferred on deputation to the R.D.S.O. Lucknow as C & W Inspector in the same grade and pay. The applicant joined his service in the R.D.S.O. w.e.f. 22.11.1967 and continued upto 15.10.1976.

2. That it so happened that the award of Railway Labour Tribunal(hereinafter referred to as the R.L.T.), 1969 was accepted by the Railway Board according to which the posts of Fireman 'A' were re-designated as Shop Superintendents and incumbants of these posts were granted special pay of Rs.150/- per month w.e.f. 1.8.1972 in lieu of a separate higher scale.

3. That in the year 1974 the pay scales of Fireman 'A' (redesignated as Shop Superintendent) were revised w.e.f. 1.1.1973 and the incumbants of these posts were placed in the revised pay scale of Rs.840-40-1040.

4. That the applicant was though holding in the substantive capacity the post of Fireman 'A' (Re-designated as Shop Superintendent) prior to his deputation to R.D.S.O. but he was not allowed to draw the special pay of Rs.150/- per month w.e.f. 1.8.1972 as per the R.L.T.award 1969 even though a certificate was issued under N.B.R. <sup>as</sup> in the case of Shri Haneef of N.F.Rly. This also resulted into placement of the applicant in lower scale of pay w.e.f. 1.1.1973 as well. The applicant was thus put to recurring pecuniary losses from 1.8.1972 to 15.10.1976 and even though he was placed in appropriate revised scale w.e.f. 1.1.73.



but was allowed to draw actual pay of the scale w.e.f. 16.10.1976 when he reported back ~~as per~~ ~~as per~~ to his parent department (Jhansi workshop of Central Railway).

5. That the applicant was confirmed as Assistant Foreman since redesignated as Assistant Shop Superintendent w.e.f. 7.6.1969 while he was working on the establishment of R.D.S.O. by Central Railway as advised vide their letter No. HPB/220/M/D/MTN/JHS dated 23.4.1974. However, the confirmation of the applicant as Foreman 'A' (Shop Superintendent) was deliberately delayed and he was confirmed on the said post of Shop Superintendent w.e.f. 1.11.1969 when he was working in R.D.S.O. on deputation vide order dated 13.7.1979 i.e. after a lapse of about 10 years and just before four months prior to superannuation in November 79 after sustained repeated efforts of representations and interviews since 1973.

6. That ever since his repatriation to the parent department the petitioner has been continuously making representations to the authorities for payment of special pay w.e.f. 1.8.1972 and pay as due in the revised pay scale of Shop Superintendent on to which he is confirmed since November 1969 w.e.f. 1.1.1973 to 15.10.1976 but it was not allowed to him and was allowed to Shri Haneef by N.F.Rly in 1975. The applicant retired from service w.e.f 30.11.1979 A.N. on attaining the age of superannuation.



Jagdish Charan Shukla

7. That the applicant continued to make representations and interviews with the authorities even after his retirement and in all he has preferred 91 representations during 1973 to November 79 and 17 after superannuation but of no avail till 1984.

8. That having left with no other alternative the applicant preferred Writ Petition No.14232 of 1984 before the Hon'ble High Court of Judicature at Allahabad for payment of Special Pay from 1.1.1973 to 15.10.1976 and consequential benefits with interest. This writ petition was transferred to this Hon'ble Tribunal Under Section 29 of the Administrative Tribunal's Act. 1985 and registered as No.1378(T). The counter and Rejoinder affidavits were exchanged between the parties. During the pendency of this writ petition/transferred application, the Railway Board approved the fixation of pay of the applicant w.e.f. 1.1.1973 by giving notional benefit of Special Pay of Rs.150/- per month and paid a sum of Rs.8102.65P on account of arrears from 1.1.1973 to 15.10.1976. The special pay from 1.8.1972 to 31.12.1972 and the interest on the amount of arrears was however not paid.

9. That as the Railway Board has allowed only the arrears from 1.1.1973 to 15.10.1976 and no interest was paid, the applicant moved an application for amendment of the writ petition for specific claim of interest and the <sup>amendment</sup> ~~amount~~ was allowed by this Hon'ble Court.



Jagdish Charan Shukla

(A65)

X

10. That the arguments were heard in the case on 13.3.1990 and the judgment was reserved by this Hon'ble Tribunal. The judgment was pronounced on 23.3.1990. The certified copy of the judgment was received by the applicant on 6.4.1990. A perusal of the judgment reveals certain errors apparent on the face of the record, besides the case laws cited by the applicant for payment of interest have not been considered at all. This has necessitated the present review application.

11. That in para 2 of the judgment, it is mentioned that "during the period 22.11.1967 to 15.10.1976, he was transferred on deputation to Northern Railway to work as C.W. Inspector in R.D.S.O. at Lucknow on same scale and grade". It may be stated here that the applicant was transferred on deputation to the R.D.S.O. at Lucknow which is an independent unit under Ministry of Railways and does not come under any Zonal Railway. The words "Northern Railway" have been mentioned erroneously, which does not find mention in the pleadings of the parties.

12. That para 7 of the judgment, which is reproduced below, is apparently erroneous and this Hon'ble Tribunal has come to such conclusion under some misconception, not borne by the materials on record:-

"7. We have gone through the record carefully. Record brings out that the case of the petitioner was considered



Jagdish Chander Shukla

promptly and sympathically and then as it involved relaxation of rules and Railway Board's orders, naturally some delay was inevitable and the orders were finally issued with the sanction of the President. We do not see any justification for award of interest. However, we are of the view that the petitioner is entitled for special pay of Rs.150/-p.m. attached to the post of Foreman 'A' w.e.f.1.8.1972. We also notice that in the case of one Frontier Sri N.N.Hanif of Northern Railway the benefit of Special pay was given w.e.f.1.8.1972 in similar conditions (Annexure-E). We consider it would be fair and just that the applicant also is extended the same benefit, accordingly we order that the applicant be paid a special pay of Rs.150/-for the balance period i.e.1.8.1972 to 31.12.1972 with other consequential benefits arising out of this, if any. This petition is disposed of as above without any order as to costs".



13. That as already stated the payment of special pay w.e.f.1.8.1972 and refixation of pay w.e.f.1.1.1973 to 15.10.1976 was inordinately delayed by the opp. parties. The applicant has been running from pillar to post and has made a total of 108 representations to get the amount and when his efforts failed, he was constrained

(22)

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- 7 -

to move a writ petition under Article 226 of the Constitution. Ultimately, the Railway Board approved payment of pay w.e.f. 1.1.1973 to 15.10.76, the arrears of which was paid after more than 10 years after its due date and 8 years after the retirement. The claim of special pay from 1.8.1972 to 31.12.1972 was, however, not allowed. There is no explanation for this delay in the counter affidavit filed by the opp. parties. This cannot be termed that the case of the petitioner was promptly and sympathically considered. This Hon'ble Tribunal has accepted that in an identical case of one Sri N.N.Hanif of N.F.Railway was given the benefit of special pay w.e.f. 1.8.1972 and his pay was fixed in the appropriate scale of Rs.840-40-1040 and orders for payment of the amount was passed in 1975 (Annexure No.6 to the writ petition). In the case of Sri Hanif, the approval of the Railway Board was not sought and the approval was given by the G.M., N.F.Railway. It is not understood as to why the approval of Railway Board was needed in the case of the applicant. This Hon'ble Tribunal has not allowed any interest on the arrears paid in 1987. Even no interest has been allowed on the arrears of special pay from 1.8.1972 to 31.12.1972 which has been allowed by this Hon'ble Tribunal vide judgment dated 23.3.1990. It may be stated here that the applicant would be getting the arrears of special pay after more than 18 years of due date and 11 years of retirement. Such an abnormal delay cannot be deemed to be some delay as has been held by this Hon'ble Tribunal. It would not be out of place to



Jagdish Charan Shukla

mention here that had this amount paid to the applicant, as was paid to Mr. N.N.Hanif of N.F. Railway, it would have fetched a minimum of P.F. rate of interest (12% p.a.). This Hon'ble Tribunal has not specified any time limit for the payment of the arrears of special pay ~~Rs.~~150/- per month from 1.8.1972 to 31.12.1972.

14. That from the side of applicant the following case laws were cited and their photostat copies filed but the same have not been considered in the judgment. It may be stated here that the judgment of the Hon'ble Supreme Court are the law of the land under Article 141 of the Constitution:-

(a) 1985(1)SCC 429-The State of Kerala and others Vs. M. Padmanabhan Nair -

In this case the Hon'ble Supreme Court had allowed interest at the current market rate on account of a delay of 2½ years, whereas in the present case there is a delay of more than 10 years in making payment of arrears of fixation of salary w.e.f. 1.1.1973 to 15.10.1976 and 18 years for the special pay from 1.8.1972 to 31.10.1972.

(b) 1987 U.P.L. B.E.C. 583-O.P. Gupta Vs. Union of India & others

In this case, the Hon'ble Supreme Court allowed interest @ 12% on delayed payment of difference in the salary as well as pension on re-fixation of pay and pension.



*Jagdish Chawan & Shukla*

15. That on the date of final hearing on 13.3.1990, no arguments were advanced by the opp. parties regarding the reasons for delay in payment. However, this Hon'ble Tribunal has explained the so called reasons, i.e. approval of Railway Board and sanction in the name of President, for the delay in payment *suo-motu*, which has adversely affected the interest of the applicant.

16. That it would not be out of place to mention here that the payment of arrears on account of re-fixation of salary from 1.1.1973 to 15.10.876 was made after protracted correspondence by the applicant and that too after 8 months of the approval of the Railway Board. This *issofacto* speaks of the promptness of the Department. Moreover this payment was made three years after filing of the writ petition and more than 8 years after retirement. The applicant has to incur the expenditure in making correspondence and for the present litigation. The applicant is, therefore, eligible not only for the interest but the cost of the petition also. The applicant, as such craves the leave of this Hon'ble Tribunal for preferring the application ~~as~~ for review of the judgment and order dated 23.3.90 on the following amongst other -

GROUND S

(A) *Jagdish Charan & Sonu* Because some mistakes or errors are apparent in the judgment on the face of the record.

(B) Because there has been no prompt and



sympathetic consideration of the case of the applicant.

(c) Because the payment was inordinately delayed and arrears of refixed substantive salary w.e.f. 1.1.1973 to 15.10.1976, was made after 11 <sup>to</sup> and 14 years when was due that too after 8 years of retirement and that too after filing of the petition.

(d) Because there was no requirement of the sanction of the President or the Railway Board and the applicant could have been allowed the benefit of R.L.T. award 1969, like other employees.

(e) Because the applicant is entitled to interest in view of law laid down by the Hon'ble Supreme Court.

(f) Because no interest has been allowed on the amount of arrears of special pay w.e.f. 1.8.1972 to 31.12.1972.

(g) Because the time for payment has also not been specified in the judgment.

(h) Because the cost of the petition ought to have been allowed in view of protracted correspondence and inordinate and deliberate delay in payment.

(i) Because the judgment of the Hon'ble



Jagdish Charan Slunkha

(I)

(26)

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- 11 -

Supreme Court cited by the applicant have not been considered at all.

(J) Because in view of the pronouncements of the Hon'ble Supreme Court, the applicant is entitled for payment of current market rate of interest on the amount of arrears of special pay from 1.8.72 to 31.12.1972 and arrears of refixed salary from 1.1.73 to 15.10.1976.

(K) Because no arguments were advanced by the opp. parties regarding the reasons for delay in payment and, therefore, this Hon'ble Tribunal was not justified in giving so called justification for delay in making payment to the applicant.

P R A Y E R

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal may kindly be pleased to review the judgment and order dated 23.3.1990 passed by Hon'ble Mr.D.K.Agarwal, J.M. and Hon'ble K.Obayya, A.M. and may be pleased to pass such other order or judgment as this Hon'ble Tribunal may deem fit in the interest of justice.



Lucknow:

Counsel for the applicant

Dated: April 20th, 1990.

Jagdish Chaitan Shukla  
Applicant  
through  
Counsel for the applicant

J.C. Shukla  
Adv.

(27) (a2) A/23

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,

LUCKNOW.

Review Application No. of 1990.

J.C.Shukla aged about 69 years son of Late Pandit Durga Charan Shukla, resident of 317 Maulviganj, Lucknow.

Applicant.



In re:

T.A.No.1378 of 1987

J.C.Shukla

...Petitioner

Versus

Union of India and others.

A F F I D A V I T

I, J.C.Shukla, aged about 69 years s/o Late Pandit Durga Charan Shukla, resident of 317 Maulviganj, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant/petitioner in the above described writ petition and as such he is fully acquainted with the facts and circumstances of the case.

2. That the contents of paras 1 to 13



and 14(partly) of the review application are true to my personal knowledge and those of paras 14 (partly) and 15 and 16 are believed to be true on legal advice.

Jagdish Chavan Shukla  
Deponent

Lucknow:

Dated: April 26<sup>th</sup>, 1990.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 2 of this affidavit are ~~are~~ true to my personal knowledge and those of paras - are believed on the basis of record and those of paras- are believed to be true on the basis of legal advice.

No part of it is false and nothing has been concealed. So help me GOD.

Jagdish Chavan Shukla  
Deponent

Lucknow:

Dated: April 26<sup>th</sup>, 1990.

I identify the deponent who has

C.No. 9. I M signed before me.

Personally examined before me in open Court  
at 11-42 AM by J. C. Shukla  
who is identified by Shri  
Chakraborty R. C. S. S. -

I have satisfied myself by examining the  
deponent that the undersigned contents  
of this affidavit were being read out and  
explained by him. Fee Rs. 1-50

J. C. Shukla  
Advocate.

RALS MATTIAZ  
Advocate  
Collectorate Court, Lucknow  
Date 27/4/1990.

CIRCUIT BENCH AT LUCKNOW

T.A. No. 1378/87 (T)

(W.P. NO. 4232/84)

J.C. Shukla ..... Petitioner.  
Union of India & Others ..... Respondents.  
Hon. Mr. D.K. Agrawal, J.M.  
Hon. Mr. K. Obayya, A.M. (By Hon. K. Obayya)

The writ petition No. 4332/84 filed in the High Court of Judicature at Allahabad, has been received on transfer under Section 29 of the Administrative Tribunal Act, 1985 and Registered as No. 1378/87 (T). The request of the petitioner in this W.P. is for payment of the special pay and fixation of pay as per rules, for the period 1.8.1972 to 16.10.1976 and consequential benefits with interest.

2. The facts of the case are not much in dispute. The petitioner was employed in the Central Railway and was confirmed in the post of Foreman-A w.e.f. 1.11.1969 on the scale of Rs. 450-570. During the period 22.11.1967 to 15.10.1976, he was transferred on deputation to Northern Railway to work as C.W. Inspector in R.D.S.O. at Lucknow on same scale and grade. He reverted to his parental Railway namely Central Railway thereafter and retired on superannuation on 30.11.1979, as Assistant Works Manager Class-II.

3. His case is that while he was on deputation at Lucknow, Railway Board vide its letter No. PC-72/RLT-69-2 dated 12.3.1973 issued orders <sup>accepting</sup> ~~excluding~~ Railway Labour Tribunal award and approving special pay of Rs. 150/- p.m.

Contd.. 2/-

to the post of Foreman-A which post was also redesignated as Shop Superintendent w.e.f. 1.8.1972. As he was confirmed <sup>as</sup> ~~on~~ Foreman-A, he was entitled for this special pay but for his deputation he would have drawn this amount from 1.8.1972.

4. The scale of Foreman-A (Shop Superintendent) was also revised from Rs. 450-570 to Rs840-1040 w.e.f. 1.1.1973.

He is entitled for this scale. He made representation to the authorities in this regard but they were rejected,

5. The respondents in their counter has stated that the applicant is not entitled for the special pay as he was not holding the post of Foreman-A on the crucial date namely 1.8.1972 and that according to the Rule-2003(23)

of the Indian Railway Establishment Code Vol-2 no protection of salary can be given to him as he was away on deputation. However, it would appear that the matter was taken up by the General Manager of the Northern Railway (Annexure II) and the case was favourably considered. The Railway

Borad by the order dated 19/20.8.1986 passed an order approving fixation of salary of the petitioner in the Grade of Rs. 840-1040 w.e.f. 1.1.1973 taking into consideration the special pay of Rs. 150/- p.m. his claim for arrears from the date 1.1.1973 to 15.10.1976 amounting to Rs. 8102.65 was also paid to him. This fact is admitted by the Petitioner in Para-10 of the Rejoinder.

6. We heard the counsel for the parties. The learned counsel for the respondents said that in as much as claim petition of the petitioner has been settled the petition has become infructuous. The learned counsel for the Pet-

petitioner, however, stated that arrear from ~~1.8.1972~~ to 1.8.1972 to 31.12.1972 were not paid and he also urged for payment of interest for the delay in payment.

7. We have gone through the record carefully.

Records brings out that the case of the petitioner was considered promptly and sympathetically and then it involved relaxation of rules <sup>and</sup> Railway <sup>Board</sup> orders, naturally some delay is inevitable and the orders were finally issued <sup>with</sup> the sanction of the president.. We do not see any justification for award of interest.

However, we are of the view that the petitioner is entitled for special pay of Rs. 150/- p.m. attached to the post of Foreman-A w.e.f. 1.8.1972. We also notice that in the case of one Shri. N.N. Hanif of Northern

Railway Frontier Railway the benefit of special pay was given w.e.f. 1.8.1972 in similar conditions (Annesure-~~to~~)

We consider it would be fair and just that the applicant also is extended the same benefit, accordingly we order that the applicant be paid a special pay of Rs. 150/- for the balance period i.e. 1.8.1972 to 31.12.1972 with other consequential benefits arising out of this, if any. This petition is disposed of as above without any order as to costs.

C.T.C.

Attested

23.3.90

J.M.

Dated 23 March 1990

  
6/4/90

Deputy Registrar

Central Administrative Tribunal

Lucknow Bench.

Lucknow



:: 2 :: (32)

TA 1378/89 H

(A78)

(1)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
17/8/90	<p>we have perused the judgment &amp; review application. We do not consider necessary to issue notice to parties. According to review application points raised therein considered by us carefully. In our opinion review application is liable to be rejected. We have, therefore, passed order rejecting it.</p> <p>At Dinesh A.M. 17/8/90</p>	<p>A.C.M.(Review) A.N. No. has been filed in T.A.1378/89 (C) on 23/3/89. The case hearing was decided by the Bench of Hon'ble Justice Mr. D. K. Agarwal, J.M. Hon'ble K. Dayya &amp; M. on dated 23/3/89. The outcome of the Judgement is Hon'ble K. Dayya A.M.</p> <p>D.K. Agarwal J.M.</p>

(33) A 39  
CIRCUIT BENCH AT LUCKNOW

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Review Application No. 262 of 1990 (L)  
IN

T.A. No. .... 1378 of 1987

J.C. Shukla

..... Petitioner.

versus

Union of India & others

..... Respondents.

Hon. Mr. D.K. Agrawal, J.M.

Hon. Mr. K. Obayya. A.M.

(By Hon. K. Obayya)

This review application is directed against the order and judgement in T.A.No. 1378 of 1987. The applicant was employed in the Central Railway as 'Foreman-A' had sought a direction to the respondents for payment of special pay of Rs 150/- p.m. for the period, he was on deputation i.e., 22.11.1967 to 15.10.1976. The respondents' contention is that this special pay of Rs 150/- p.m. was given to only those who are holding the post of 'Foreman-A' and that since applicant was not on this post, but on deputation on 01.08.1972, he was not entitled. However, his case was sympathetically considered and he was given the special pay w.e.f., 01.01.1973. The arrears accruing amounting to Rs 8,102.65 was also paid to him. The applicant urged that the period from 01.08.1972 to 31.12.1972 is not covered by the sanction and he also sought interest for the arrears. We considered and directed the respondents to pay him the special pay for the left over period namely 01.08.1972 to 31.12.1972. No interest was allowed on this amount on the ground that his case was sympathetically considered at all levels and the payment involved relaxation of rules.

2. In this review petition, the applicant urged that the re-fixation of his salary by adding special pay took inordinate time and it was only after 10 years, the same was sanctioned to him and that it was not necessary to refer the

matter to the president or the Railway Board for the sanction and the applicant is entitled for the interest because of the delay. All these matters were considered in the main application <sup>and the</sup> ~~within~~ orders in T.A- No. 1378 of 1987 <sup>accordingly passed</sup> ~~on the point~~. There is no error apparent on the face of the judgement and accordingly the application is dismissed.

DK *[Signature]* 17.8.90  
Member (J)

(DK)

*[Signature]*  
Member (A)

August 17<sup>th</sup>, 1990.  
Allahabad.

All communications should  
be addressed to the Registrar,  
Supreme Court, by designation.  
NOT by name.  
Telegraphic address :-  
"SUPREMECO"

(35) D. No. 1441/91/SEC-XVII

A77A  
A/4

SUPREME COURT  
INDIA

Dated New Delhi, the 1st February, 1992. .... 19

FROM

The Assistant Registrar  
Supreme Court of India  
New Delhi.

TO

The Registrar,  
Central Administrative Tribunal  
Circuit Branch at  
LUCKNOW.

CIVIL APPEAL NO. 5058 OF 1991

( T.A.No. 1378 of 1987 )

95  
11/2/92

J.C. Shukla

... Appellant

—  
Versus

Hon'ble Mr. D.K. Agarwala, Judicial Member  
(C.A.T.) Lucknow and Another.

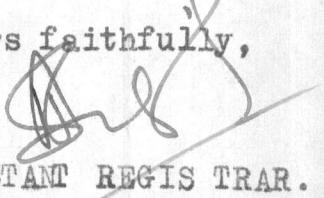
... Respondent

Sir,

In pursuance of Order XIII, Rule 6, S.C.R., 1966, I am directed to transmit herewith a Certified copy of Order dated the 21st January, 1992 in the Appeal above-mentioned. The Certified Copy of the Decree made in the aforesaid appeal will be sent later on.

Please acknowledge receipt.

Yours faithfully,

  
ASSISTANT REGIS TRAR.

J.S / Record Room  
Put up with file at once  
2/1/92

11-2-92

Received the  
file. Keep it  
on file  
12/2

(56) A 78 A  
B5

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 5058 (NM) OF 1991

363841

J.C.Shukla

... Appellant

Vs.

Hon'ble Mr.D.K.Agarwal, Judicial  
Member, Central Administrative  
Tribunal, Lucknew & Anr.

... Respondents

O R D E R

Certified to be true copy

  
Assistant Registrar (Judi.)

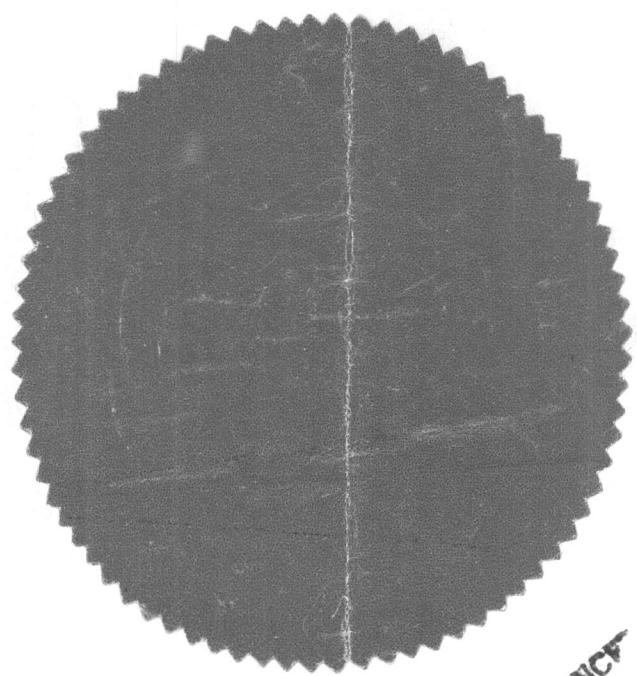
..... 3-2-1992  
Supreme Court of India

Dismissed.

..... Sd/-.....  
(M.M.PUNCHHI)

New Delhi,  
January 21, 1992.

..... Sd/-.....  
(YOGESHWAR DAYAL)



"SEALED IN MY PRESENCE"

7/21/52



A/185

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD.

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Counter-Affidavit

In

Civil Misc. Writ Petition No. of 1984.

J.C. Shukla ----- Petitioner.

Versus

Union of India and another ----- Opp.-parties.



Affidavit of Prabhakar Narayan Vaidya  
aged about 51 years s/o Narayan  
Vishnu Vaidya, Head Clerk Chief  
Personnel Officer's Office Central  
Railway, Bombay V.T.

(Deponent)

Reed copy  
J. Shukla  
b/14

The deponent named above do hereby  
solemnly affirms and states as follows:-

1.

That the deponent is the Head Clerk  
is doing the paivni in the above-mentioned  
and he is fully acquainted with the  
to below.

PK/9

1A  
2A

:2:

2. That the contents of the writ petition have been read over and understood the contents thereof.

3. That the contents of para 1 of the writ petition need no reply.

4. That with regard to the contents of para 2 of the writ petition it is stated that the services of the petitioner were transferred from 22.11.67 while he was officiating as stated with effect from 7.4.61 and not 1.4.61.

5. That the contents of para 3 of the writ petition are not admitted as stated. The petitioner joined service in R.D.S.O. Lucknow on 22.11.67 and continued to serve as such upto 15.10.76.

6. That the contents of para 4 of the writ petition are not admitted as stated, through the Award of Railway Labour Tribunal 1969 all the Foremen-A were re-designated as Shop Supdtt. as stated by the Petitioner. Further in terms of instructions contained in para -2(i) of Railway Ministry's letter No. P.C. 72/RLT/2 dated 12.3.73, as a result of Railway Labour Tribunal Award of 1969 the posts of Foremen-A in Scale Rs.450-575(AS) in the

17/12/76  
S. M. S.

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Mechanical Department were re-designated as Shop Supdtts. and the incumbents of these posts were granted a special pay of Rs.150/- p.m., with effect from 1.8.72.

7. That the contents of para 5 of the writ petition are not admitted as stated the posts of Shop Supdtts. with special pay of Rs.150/- in the Mechanical workshops were subsequently allotted the Revised Scale of Rs. 840-1040(RS) with effect from 1.1.73 vide Schedule No.13 of Railway Ministry's letter No. PC III -73. Sch.13 of 22.2.74. The revised pay scale of the petitioner however did not become Rs. 840-40-1040.

8. That the contents of para 6 of the writ petition are not admitted as stated. It is correct that the petitioner has been ~~referred~~ for payment of



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Mechanical Department were re-designated as Shop Supdtt. and the incumbents of these posts were granted a special pay of Rs.150/- p.m., with effect from 1.8.72.

7. That the contents of para 5 of the writ petition are not admitted as stated the posts of Shop Supdtts. with special pay of Rs.150/- in the Mechanical workshops were subsequently allotted the Revised Scale of Rs. 840-1040 (RS) with effect from 1.1.73 vide Schedule No.13 of Railway Ministry's letter No. PC III .73. Sch.13 of 22.2.74. The revised pay scale of the petitioner however did not become Rs. 840-40-1040.

8. That the contents of para 6 of the writ petition are not admitted as stated. It is correct that the petitioner has been representing for payment of special pay of Rs.150/- p.m. with effect from 1.8.72 vide his applications dated 13.12.82, 15.10.83 and 16.12.83, The petitioner was promptly replied vide Central Railway Administration's letters bearing No. HPB/402/M2/D/DS dated 20.9.83, 10.1.84 and 30.6.84, and advising him that his claim as made by him is not acceptable. It is, therefore, denied that the petitioner is due for payment of Rs. 8,000/- plus interest thereon as claimed by him.

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9. That the contents of paras 7 to 10 of the writ petition need no reply.

10. That the contents of para 11 of the writ petition are not admitted as stated. As the petitioner was persistently representing that he should be paid a sum of Rs. 150/- p.m. as special pay from 1.8.72 and consequential fixation of pay in the Revised Scale with effect from 1.1.73, the Central Railway Administration vide letter No. HPB/402/M2/D/DS dated 8.12.83 addressed to the Railway Ministry to re-consider the matter and convey their approval if they considered it proper to do so to the effect that the petitioner be paid a special pay of Rs. 150/- from 1.8.72 to 31.12.72 and arrears arising on account of fixation of pay in Gr. Rs. 840-1040 (RS) from 1.1.73 till he returned back to Central Railway from R.D.S.O. on 16.10.76.



11. That with regard to the contents of para 12 of the writ petition it is stated that it is incorrect to over that the General Manager made any recommendation and the Railway Board rejected the claim of the petitioner properly and validly. True copy of the Railway Board's letter dated 20.6.1984 rejecting the claim of the petitioner is attached hereto as Annexure I.

12. That with regard to the contents of para

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ASV

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13 of the writ petition it is stated that the petitioners stated letter is not traceable as having been received by the Central Railway administration. The Railway Board order, however as stated in the proceeding para is attached as Annexure I to this counter-affidavit.

13. That the contents of para 14 of the writ petition are not admitted as stated. The stated two cases one of Basant Kunwar and the other of Mohammed Hanif are not identical with the case of the petitioner and they cannot be utilised to support his claim.

14. That the contents of para 15 of the writ petition are not admitted as stated. The General ~~Managing~~ Managers of their respective Railways in the case of all class III Employees is not competent to pass orders for payment as stated. Had it been so the Railway Board would have ~~apply~~ remitted the case of the petitioner to respondent No.2, the General Manager, Central Railway for decision.

15. That the contents of para 16 of the writ petition are denied.

ASV  
17/12/85

B/S  
A/23

: 6:

That the contents of paragraph nos. 1, 2 of this counter-affidavit are true to personal knowledge of the deponent, and those of paragraph nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of this affidavit are based on record, and those of paragraph nos. 3, 9 and 15 are based on legal advice, which the deponent verily believes to be true, that no part of it is false and nothing ~~material~~ has been concealed.

So help me God.

Prabhakar Narayan Vaidya  
17/2/85

Deponent.

I, P.N. Katju Advocate, High Court, Allahabad do hereby declare that the person making this affidavit and alleging himself to be Shri Prabhakar Narayan Vaidya is known to me ~~ex~~ from the papers produced in this case.

P.N. Katju  
Adv.

Solemnly affirmed before me this 17/2/85 day of Feb. 1985 at 4.40 P.M. by the deponent who is identified by the aforesaid ~~clerk~~ /Adv.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over and explained to him.

Prabhakar  
OATH COMMISSIONER,  
High Court, Allahabad.

324/17  
17/2/85  
Prabhakar  
17/2/85

Oath Commissioner.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD.

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ANNEXURE 'I'

IN

COUNTER AFFIDAVIT

IN

CIVIL MISC. WRIT PETITION NO.

OF 1984

J.C. Shukla - - - - - Petitioner

Versus

Union of India and another - - - Opp. Parties.

- - - - -

Government of India ( Bharat Sarkar )

Ministry of Railways ( Rail Mantralaya )

( Railway Board )

No. E(Rep) 1-77-323

Dated 20.6.1984

The General Manager,

Central Railway,

Bombay.

Sub: Payment of arrears of special pay/  
Revised scales of pay to Shri J.C.  
Shukla, Ex-Se. Inspector (Wagons)  
RDSO.

Reference correspondence resting with your

17/2/85  
L. M. S.

(A/B)  
12/2/85

-2-

Railway's letter No. HPB/402/M/D/WS dated 8.12.1983 on the above subject. The ministry of Railways have re-considered the proposal made in your letter of 8.12.1983 regarding payment of arrears of special pay to Shri Shukla, but it is regretted that the same cannot be acceded to. A suitable reply may please be sent to Shri Shukla.

Please acknowledge receipt.

Sd/-

(B.K. BHATIA)

Dy. Director, Establishment,

Railway Board.

TRUE COPY

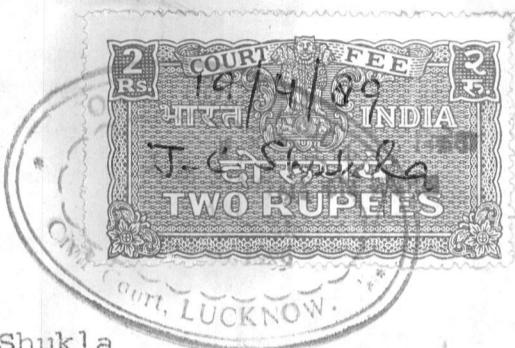
Manu  
12/12/85

*Shukla*  
OATH COMMISSIONER  
High Court, Allahabad  
No. 324/17  
12/12/85

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW.

TA.  
Registration case No. 1378 of 1987



J.C.Shukla

...Petitioner

Versus

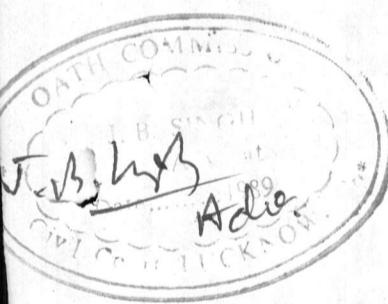
Union of India and another

...Respondents.

REJOINDER AFFIDAVIT.

I, J.C.Shukla, aged about 68 years son of Pandit Durga Charan Shukla, r/o 317, Maulviganj, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner/Applicant in the above described case and as such he is fully acquainted with the facts and circumstances of the case as deposed hereinafter.
2. That the contents of paras 1,2 and of the counter affidavit need no reply.
3. That the contents of para 4 of the counter affidavit is denied as those of para 2 of the writ petition are reiterated as true.
4. That the contents of para 5 of the counter affidavit is denied and those of para 3 of the writ petition are reiterated as true. It may be stated *also*



Pl. keep on  
record.

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P.C. 1378/1987

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stated here that vide 4 of General Manager, Central Railway's letter dated 8.12.1983 (Annexure No. II to the writ petition), it has clearly and correctly been stated that the deponent was on deputation with the R.D.S.O. from ~~10.11.1976~~<sup>1967</sup> to 16.10.1976.

5. That the contents of para 6 of the counter affidavit are denied as misconceived and those of para 4 of the writ petition are reiterated as true. It is specifically stated that a perusal of para 2 (i) of Railway Board's letter No. PC-72/RLT/2 dated 12.3.1973 (Annexure 1 to the writ petition) reveals that the special pay of Rs. 150/- per month with effect from 1.8.1972 to all the incumbants of the post of Foreman 'A' redesignated as 'Shop Superintendent'. It is further stated that there is no qualifying word in the said paragraph of Railway Board's letter. The deponent who was a confirmed and substantive Foreman 'A' was therefore eligible for redesignation as 'Shop Superintendent' and for the grant of special pay of Rs. 150/- per month with effect from 1.8.1972, but the same was illegally not granted to the deponent.



That the contents of para 7 of the counter affidavit are denied as misconceived and those of para 5 of the writ petition are reiterated as true. It may be stated here that the pay of the deponent was not fixed in the scale of Rs. 840-40-1040 with effect from 1.1.1973 due to denial of special pay of Rs. 150/- per month to the deponent with effect from 1.8.1972 for which only opposite parties are to be blamed. However, it may also be stated that the notional benefit of special pay of Rs. 150/- per month with effect from 1.1.1973 has since been allowed to the deponent but the benefit from 1.8.72 to 31.12.72 and interest on whole amount is still due to the deponent.

7. That the contents of para 8 of the counter affidavit are denied as wrong and those of para 6 of the writ petition are reiterated as true. The contention of the opposite parties are blatantly false in as much as the replies of the representations of the deponent, stated to have been made promptly, were given after a period of 4 months to 9 months and secondly the Railway Board has already accepted the claim of the deponent from 1.1.1973 but the claim on account of arrears of special pay of Rs.150/- per month with effect from 1.8.1972 to 31.12.1972 together with consequential benefits and interest on the whole amount is still due. An application for amendment of para 6 of the writ petition showing the rate of interest eligible and claimed by the deponent is being moved separately.

8. That the contents of para 9 of the counter affidavit need no reply, as the contents of para 7 to 10 of the writ petition have not been disposed/ denied.

9. That the contents of para 10 of the counter affidavit are denied as wrong and those of para 11 of the writ petition are reiterated as true. A perusal of the Central Railways' letter dated 8.12.83 (Annexure No.2 to the writ petition) clearly reveals that while forwarding the case of the deponent to the Railway Board, the General Manager, Central Railway, was in full agreement with the contention of the deponent. The deponent is advised to state that ultimately the Railway Board has accepted the claim of the petitioner from 1.1.1973. However, the claim regarding the arrears of special pay at the rate of Rs.150/- per month from 1.8.1972 to 31.12.1972 and its



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consequential benefits together with interest on the whole amount is yet to be decided.

10. That the contents of para 41 of the counter affidavit are denied as incorrect. The Railway Board had wrongly rejected the claim of the petitioner. It is, however, stated that the Railway Board has since accepted the claim of the petitioner from 1.1.1973 to 15.10.1976 and a sum of Rs.8102.65 has been paid to the deponent during the month of June 1987. But the claim of deponent for the grant of special pay at the rate of Rs.150/- per month from 1.8.1972 to 31.12.1972 together with consequential increase in other allowances and interest on the whole amount is yet to be satisfied. In this context, a true copy of the Railway Board's letter No.E(REP)I-77 AE-7-328 dated 19/20.8.1986, accepting the claim of the deponent from 1.1.1973, is being annexed as Annexure No.RA-1 to this affidavit.

11. That the contents of para 12 of the counter affidavit are denied as untrue. However, it needs now no reply as copy of the alleged Railway Board's letter has been attached to the counter affidavit.

12. That the contents of para 13 of the counter affidavit are denied as wrong and misconceived.



1/9  
A/39

consequential benefits together with interest on the whole amount is yet to be decided.

10. That the contents of para 11 of the counter affidavit are denied as incorrect. The Railway Board had wrongly rejected the claim of the petitioner. It is, however, stated that the Railway Board has since accepted the claim of the petitioner from 1.1.1973 to 15.10.1976 and a sum of Rs.8102.65 has been paid to the deponent during the month of June 1987. But the claim of deponent for the grant of special pay at the rate of Rs.150/- per month from 1.8.1972 to 31.12.1972 together with consequential increase in other allowances and interest on the whole amount is yet to be satisfied. In this context, a true copy of the Railway Board's letter No.E(REP)I-77 AE-7-328 dated 19/20.8.1986, accepting the claim of the deponent from 1.1.1973, is being annexed as Annexure No.RA-1 to this affidavit.

11. That the contents of para 12 of the counter affidavit are denied as untrue. However, it needs now no reply as copy of the alleged Railway Board's letter has been attached to the counter affidavit.

12. That the contents of para 13 of the counter affidavit are denied as wrong and misconceived. The two cases cited by the deponent were exactly identical and definitely supported the case of the deponent. The contents of para 14 of the writ petition are reiterated as true.

13. That the contents of para 14 of the counter affidavit are denied as incorrect and those of para 15 of the writ petition are reiterated as true. It is



25/11/1982  
25/11/1982

stated here that if General Managers of other Zonal Railways could sanction the special pay to their class III employees on deputation to the R.D.S.O., the General Manager, Central Railway should also have sanctioned the claim of the deponent, but he had not done so far the reasons known to him and forwarded the claim of deponent to the Railway Board for sanction.

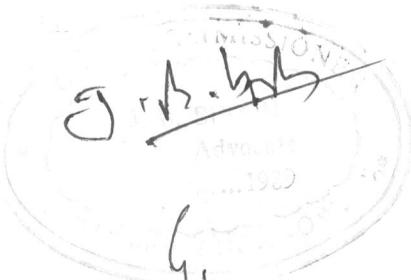
14. That the contents of para 15 of the counter affidavit are denied as wrong and vague and those of para 16 of the writ petition are reiterated as true. It is stated here that as the Railway Board has already sanctioned the claim of the deponent from 1.1.1973 and a sum of Rs.8102.65 has been paid in January 87, the deponent is entitled and prays for the following, besides other reliefs which this Hon'ble Tribunal may grant in the circumstances of the case:-

(a) arrears of special pay of Rs.150/- per month from 1.8.1972 to 31.12.1972 and its consequential increase in other allowances.

(b) interest on the whole amount at the P.F. rate from the date due to the date of retirement, at Bank's lending rate from the date of retirement to the date of filing of the writ petition and at the rate as may be allowed by this Hon'ble Tribunal ~~xxxxxx~~ from the date of the filing of the petition to the date of full and final payment.

(15) That it is specifically stated here that the inordinate delay in sanction and payment of the claim of the deponent is attributed to the inaction/wrong action of the opposite parties and they are liable

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to pay interest as claimed in the petition and in the preceding paragraph.

Lucknow

२१-४-१९८९

Deponent

Dated: April 19th, 1989.

Verification

I, the above named deponent do hereby verify that contents of paras 1 to 5 of this rejoinder affidavit are true to my own knowledge and those of paragraphs \_\_\_\_\_ are believed to be true as per legal advice received.

Lucknow: Dated:

२१-४-१९८९

Deponent

April 19th, 1989.

I identify the deponent to whom I know personally and who has signed before me.

R.C. Singh  
Advocate

Solemnly affirmed before me on 19.4.89 at 12.00 a.m./p.m. by the deponent Sri J.C. Shukla, who is identified by R.C. Singh, Advocate

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over by me.

Subscribed before me in Office to day  
R.P. Jagdish Chakraborty  
who is identified by Sri.....  
Clerk to Sri..... R.C. Singh Ad

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over and explained to him. Fee Charged Rs. 1.00/-

J.B. Singh  
(Jai Bahadur Singh)  
Advoc.  
Oath Commissioner  
Civil Court, Lucknow  
Ad

(10)  
12/12

In the Central Administrative Tribunal,  
Additional Bench Allahabad,

Registration No. \_\_\_\_\_ of 1987.

J.C.Shukla ... Petitioner.  
Vs.

The Union of India & others. Respondents.

Annexure No.RA-1.

Government of India Ministry of Transport,  
Department of Railways ( Railway Board).

No.E9REP) I-77AE7-328. New Delhi dt.19/20.8.86.

The General Manager,  
Central Railways,  
Victoria Terminus,  
Bombay.

Sub: Payment of arrears of Special Pay/  
Revised scales of pay to Shri J.C.Shukla, Retd. AWM/  
Jhansi Workshop.

Ref: Your Letter No.HPB/402/M2/D/PFO dt.  
\*\*\* 9.8.85.

In the circumstances explained in your letter dated 9.8.85 referred to above, Department of Railways ( Railway Board) approve of Shri J.C.Shukla, Retd. AWM/ Jhansi Workshop being allowed to draw arrears from 1.1.78 when his pay was refixed in scale of Rs.840-1040 after taking into account national special pay of Rs.150/- per month to which he was eligible, in relaxation of the orders contained in Board's letter No.E(P&A) I-77/SP-1/WS-1 dated 10.2.78. The above has the sanction of the President.

This issues with the concurrence of Finance Directorate of Board's Office.

Sd/(B.K.Bhatia)  
Dy. Director, Establishmen  
(R)I, Railway, Board.

No. E(REP)I-77AE7-328.

Copy forwarded to FA&CAO C.Rly.BB.

Copy forwarded to Director of Railway Audit, C.Rly.BB.  
Copy to E(P&F(E)III Br. Of Bd's Office.



✓/2  
A/3

Sd/  
For Financial Commissioner,  
Railways.  
Headquarters Office,  
Personnel Branch, Bombay-VT  
dt. 19.9.86

Dentral Railway.

No. HPB/402/M.2/D/PFO.

Copy for information & necessary action forwarded  
to:-

1. FA&CAO BB in continuation of this office letter  
No. HPB/402/M.2/D/PFO. dt. 9.8.1985 addressed to  
Railway Board Copied to him.

(His No. AC/980/EN G/Dt. 3/4.7.85 connects.

2. ACME JHS J/127/Court/Writ dt. 23.1.85 connects.  
3. WAO JHS.

Sd/-  
(B.K.Iyer)  
For Chief Personnel Officer  
(Mech).

True Copy.

5/2/86  
2-12-86  
2/2/86



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

A/44  
3/63

Misc. Application No. 126 of 1989 (C)

In Re:  
T.A. Case No. 1378 of 1987

J.C. Shukla, aged about 68 years, s/o Pandit Durga  
Charan Shukla, resident of No. 317, Maulviganj, Lucknow.

..Petitioner/Applicant

Versus

1. Union of India/Railway Board, Ministry of Railways,  
Rail Bhawan, New Delhi through the Secretary,  
Establishment.
2. General Manager, Central Railway, Headquarters Office,  
Bombay V.T.-400001

..Opp. Parties.

Application-cum-objection in reply to the application  
of the Respondents for dismissing the petition.

For the facts and reasons stated in the  
accompanying affidavit, it is humbly prayed that  
Hon'ble ~~xxx~~ Tribunal may kindly be pleased to  
reject the application moved on behalf of the  
respondents for dismissing the petition and be further  
pleased to pass any other order which this Hon'ble  
Tribunal deems fit and appropriate in the circumstances  
of the case.

*(R.C.Singh)*

( R.C.SINGH )  
Advocate  
Counsel for the Applicant/  
Petitioner

Lucknow: Dated:

April 26th, 1989.

*Pl. Kuf*  
*Recd.*  
*01/5/89*

*Pl. Kuf*  
*Recd.*  
*01/5/89*

Lucknow: Dated:

April 26th, 1989.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.

Misc. Application No. of 1989.

J.C.Shukla, aged about 68 years, s/o Pandit Durga Charan Shukla r/o 317, Maulviganj, Lucknow.

... Applicant.



In Re:

Registration Case No. 1378 of 1987

J.C.Shukla

... Applicant

Versus

Union of India & others

... Respondents

I, J.C.Shukla, aged about 68 years, son of Pandit Durga Charan Shukla r/o 317, Maulviganj, Lucknow the deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner/applicant in the above described case and as such he is fully acquainted with the facts and circumstances of the case. The deponent has been read over and explained the contents of application moved on behalf of the respondents for dismissing the petition (claim application) and its objection/reply is being given as deposited hereinunder.

2. That the contents of para 1 of the application are admitted only to the extent of the

11/2/1989  
12/2/1989  
13/2/1989  
14/2/1989

fact that a sum of Rs.8102.65 has been paid to the deponent. It is specifically stated that the deponent is eligible to get the benefit of special pay of Rs.150.00 per month with effect from 1.8.1972, together with consequential increase in D.A., C.A.A. and H.R.A. etc. The deponent is further advised that the opp. party No.1 has allowed the claim of the deponent from 1.1.1973 vide Railway Board's letter No.E(REP) I-77 AE 7-328 dated 19/20-8-86, giving notional benefit of special pay of Rs.150.00 per month for the purpose of pay fixation with effect from 1.1.73 based on the recommendations of IIIrd Pay Commission. Neither any reason has been given for disallowing the claim of special pay from 1.8.1972 to 31.12.1972, nor it has been allowed through the letter itself admit the eligibility of the deponent to the special pay.

A true copy of Railways (Railway Board) letter dated 19/20-8-1986 has been annexed as Annexure No.RA-1 to the rejoinder affidavit. It may be stated here that the deponent had claimed the special pay and consequential fixation of pay together with interest as indicated in paras 6 and 9 of the writ petition and admitted in para 8 of the counter affidavit. It may also be stated that in his considered opinion, the General Manager, Central Railway had clearly stated in para 4 of letter dated 8.12.1983 (Annexure No.2 to the petition) that the deponent is entitled to receive the same. This is also clear from paras 6 and 7 of Central Railway letter No.HPB/402/M 2/O/PFO dated 9.8.85, referred to in Railway Boards letter dated 19/20-8-1986(Annexure R-1). A true copy of Central Railway letter dated 9.8.1985 is being annexed as Annexure No.R-1 to this affidavit.

11/12/86  
J.B.H.

14/6

14/7

3. That the contents of para 2 of the application are denied as wrong and misconceived. The deponent is advised to state that the deponent is entitled to the special pay at the rate of Rs.150.00 per month with effect from 1.8.1972, its consequential benefit together with the interest at the P.F. rate till the date of retirement i.e. upto 30.11.1979 and thereafter at Bank's lending rate till the filing of the claim petition, i.e. 1.12.1979 to 31.8.1984 and thereafter at the rate as may be allowed by this Hon'ble Tribunal till the amount is paid. The deponent is advised to state that the petition has not become infructuous, as the payment of Rs.8102.65 is a very meagre amount as compared to the total amount due to the deponent on account of the arrears and interest.

4. That it may also be stated here that the delay in making payment is attributable to the opposite parties and they are liable to pay interest as mentioned in preceding paragraphs. It would also not be out of place to mention here that even for the payment of Rs.8102.65, it took eight months for the opposite party No.2 to release the payment as approved by the Railway Board(Annexure No.RA-1) and thus the deponent's harassment is still continuing.

5. That as already stated, the petition has not become infructuous and the application moved on behalf of the respondents is liable to be rejected.

14/21-42212146  
Deponent

Lucknow

Dated: April 19A, 1989

Verification

I, the above named deponent do hereby

14/21-422112146  
43

verify the contents of paras 1 to 5 of this affidavit are true to my own personal knowledge and those of paragraphs are believed to be true as per legal advice received.

5/1/121421121401  
Deponent.

Lucknow: Dated:

April 19, 1989.

I identify the deponent to whom I know personally and who has signed before me.

R.C. Singh  
Advocate.

Solemnly affirmed before me on 19-4-89 at a.m./p.m. by the deponent Sri J.C. Shukla, who is identified by R.C. Singh, Advocate

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over to him by me.

W.M.  
Solemnly affirmed before me in Office to the  
R.C. Singh, Advocate  
Who is identified by Sri  
Clerk to the Court  
R.C. signs Ad

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over to him by me. The fee charged Rs. 1.00/-

Jai Bahadur Singh  
Adv.

Qath Commissioner  
Civil Court, Lucknow  
Adv.



X/6

X/6

In the Central Administrative Tribunal, Additional  
Bench Allahabad.

Registration No. of 1987.

J.C. Shukla .... Petitioner.  
vs.  
The Union of India and others. Respondents.

Annexure No. R-1.

HPR/402/M2/D/PFO

The Secretary (E),  
Ministry of Railways,  
(Railway Board)  
New Delhi.

Sub: Payment of arrears of Special Pay/Revised  
Scales of pay to Shri J.C. Shukla, Retired  
AWM, Jhansi Workshop.

Ref: D.O. Letter No. E(Rep) I-77AE7-328 dt. 8.4.85  
from Shri B.K. Bhatia, Dy. Director Estt. (R)I,  
Ministry of Railways, Railway Board.

\*\*\*

The question of payment of arrears of special pay/  
Revised scales of pay to Shri J.C. Shukla, retired A.W.M.  
Jhansi workshop has been re-examined in the light of the  
points brought out in D.O. letter dated 8.4.1985 referred  
to above.

2. As a result of implementation of the R.L.T. Award  
1969, the post of Foreman 'A' in workshop was allotted  
special pay of Rs. 150/- p.m. in addition to the pay of  
Rs. 450-575(AS). The Railway Ministry vide letter No. PC.65/  
FE/4/31, dated 9.1.69 stated that the grant of special  
pay of Rs. 150/- p.m. to the post of Foreman 'A' Gr. Rs. 450-  
575(AS) reclassified as Shop Supdt. was in lieu of higher  
scale of pay for this post. The Railway Ministry vide  
their further letter No. E(P&A) 1.77.SP-1/WS-1 dated  
10.2.78 extended the benefit of national fixation of pay  
in respect of those not actually holding the post of  
Foreman on the crucial date for were prevented from  
holding such post on that date.

P.R. Bhatia Adm.  
11/12/87  
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3. Shri J.C. Shukla while working as Foreman 'A' Gr.  
Rs. 450-575 (AS) in Jhansi Workshop was relieved on trans-  
fer to R.D.S.O with effect from 20.11.67. He reported  
back to Jhansi Workshop as as Shop Supdt. with effect  
from 16.10.76. He was working in the R.D.S.O. Lucknow

(X/G)

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- 2 -

as Sr. Inspector (Wagon) in Gr.Rs.450-575 (AS)/700-900(RS) from 20.11.67 to 15.10.1976.

4. He has been representing for grant of the benefit of Rs.150/- spl. pay p.m. with effect from 1.8.72 and re-fixation of pay in Gr.Rs.840-1040(RS) W.E.F. 1.1.73. He was however given only national fixation of pay in terms of Railway Ministry's letter No.E(P& A)I-77/SP-1/WS-1 d.t.10.2.1978 from 1.8.72 and again in the Revised Scale from 1.1.73 and was given monetary benefit for drawl purposes only from the date he actually returned to this Railway on 16.10.1976 from R.D.S.O.

5. In regard to the proposal sent with this Railway letter of even number dt. 8.12.83, FA&CAO of this Railway has stated that protection by grant of personal pay under rule 2003(23-R-II) in respect of loss of substantive pay is given with reference to the post held on a particular date to which post a revision has taken place on that date resulting in reduction of pay or due to occurrence of an event necessitating such lowering of substantive pay. He has stated that in the case of the abovenamed the grant of special pay of Rs.150/- and revision of scale of pay, have taken place on 1.8.72 and 1.1.73 respectively on which dates the employee was not actually holding the substantive post being away on deputation in R.D.S.O. Lucknow from 20.11.67 to 15.10.76 and no revision has taken place at the time he went on deputation nor on the date 1.11.69 when he was confirmed as Foreman 'A'. In the circumstances he has stated that there does not appear to be any occasion for protection of substantive pay by grant of personal pay under Rule 2003 (23-R-II) unless he had actually held the post on the crucial date. Further the protection of special pay on appointment to another post as envisaged in Board's letter No.PC65FE/4/31 dated 9.1.69 can not also strictly be extended to him since he was not the actual incumbent of the post on the date of his appointment to another post i.e. under R.D.S.O. Lucknow on 20.11.67.

6. As it is not possible to accede the request of Shri J.C.Shukla, in the light of the existing orders the Railway Ministry are requested to consider the matter and convey President's sanction as a special case to Shri J.C.Shukla being paid special pay of Rs.150/- p.m. from 1.8.72 to 31.12.72 and to the arrears arising on account of fixation of pay in Gr. Rs.840-1040(RS) from 1.1.73 till he returned back to this Railway from R.D.S.O i.e. on 16.10.76 in relaxation of their orders dt. 10.2.78.

7. Financial Adviser and Chief Accounts Officer of this Railway has remarked as under:

J.C. Shukla  
Adviser

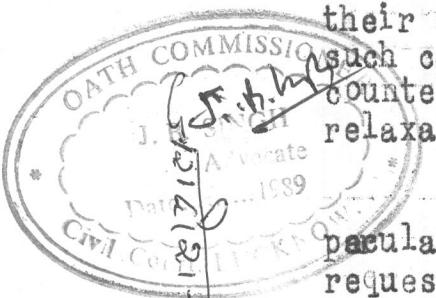
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"As already brought out in para 5 above, there are not rules for protection of substantive pay in such cases since the above named was not the actual incumbent of the post of Foreman 'A' Gr.Rs.450-575(AS) on the crucial dates viz. 1.8.72 and 1.1.73 and there was no occasion ~~xxx~~for protection of substantive pay by grant of personal pay under Rule 2003 (23)RII, since he was away on deputation and has not actually held the post of Forman 'A' Gr.Rs.450-575(AS) on 1.8.72. It was in this context only the case of the above named was examined earlier for extension of proforma benefits of fixation of pay in terms of Board's letter No.E(P&A) I-78/SP-1/WS-1 dated 5.2.78 as directed by the Board vide their letter No.E(Rep) I-77/AE7/328 dt. 5.7.78. Accordingly, he was given the benefit of proforma fixation of pay under Board's letter of 5.2.78 above, on fulfilment of the condition viz. 'utilisation in other posts in the administrative interest', which has also been allued to in para 6 of Board's letter dt. 8.4.85.

Considering, however, the fact that Shri Shukla was working under RDSO from 20.11.67 to 15.10.76 not only as a volunteer but also in the interest of RDSO despite repeated requests from him for return to parent cadre, and in view of the fact that his next junior Shri D.N. Shrivastava received the benefits from 1.8.72, a case exists for reconsideration of his claim for payment of arrears of special pay from 1.8.72 as well as fixation in higher grade of Rs.840-1040(Rs) from 1.1.73.

In this connection, attention is also invited to Board's orders contained in their letter No.E(P&A) I-77 SP-1/WS-1 dt. 6.2.80. While extending the benefits of proforma fixation of pay under their letter of 10.2.78 to all eligible staff from 1.8.72 depending on the period they were utilised against posts other than those upgraded as shop Superintendent irrespective of the fact that they had retired prior to the date of issue of their letter dt.10.2.78, the Board vide para 2 of their said letter of 6.2.80 ibid have also allowed in such cases, the emoluments not actually drawn, being counted for the purpose of pensionary benefits in relaxation of para 2545-RII.



In the light of these orders and considering the peculiar circumstances of the case, the Board may be requested to obtain and communicate as a very special case the sanction of the President for payment of arrears in relaxation of their orders dt. 10.2.78."

(P.P.Srivastav)  
For General Manager.