

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

OA No.660/2000

Mumbai, this 30th day of July, 2001

Hon'ble Shri Justice Birendra dikshit, VC(J)
Hon'ble Shri M.P.singh, Member(A)

Prabhakar Bhaskar Nene
355, Laxminiwas, V.P.Road
Girgaon, Mumbai-400 004

.. Applicant

(By Shri V.G.Rege, Advocate)

versus

Union of India, through

1. Chairman, Railway Board
Ministry of Railways
Rail Bhavan, New Delhi
2. General Manager, Central Railway
Mumbai CST 400 001

.. Respondents


(By Shri V.D.Vadhavkar, Advocate)

ORDER(oral)

By Shri M.P.Singh

Applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the order dated 3.7.2000, whereby his claim for fixation of pay under FR 22(1)(a)(I) (erstwhile FR 22-C) was rejected.

2. Brief facts of the case are that the applicant was inducted as a member of the organization called Crypto/Cipher organization in the year 1984, wherein he worked upto 31.10.94 i.e. the date of retirement from railway service. According to the applicant, he was promoted to the post of Cipher Operator Grade I (COG-I, for short) on 18.1.88. Subsequently, he was appointed to the post of Cipher Inspector (CI, for short) on 30.9.89 on ad hoc basis and he continued to work so till he retired from service on 31.10.94. It is stated by him



that prior to the recommendations of the Fifth Central Pay Commission (FCPC, for short), the pay scale sanctioned for the posts of COG-I and CI was Rs.1600-2660. On promotion as CI, in addition to the emoluments in said scale of Rs.1600-2660, applicant was being paid Rs.200/p.m. as special pay. Railway Board's letter dated 4.5.87 conveyed the acceptance of Fourth CPC's recommendations for adopting a uniform formula for fixation of pay under FR 22C in all cases of promotions from one lower post to another, carrying duties and responsibilities of greater importance than those attached to the lower post held by a railway employee. According to applicant, his pay on promotion to the post of CI should have been fixed under FR 22C. FCPC has now recommended two different pay scales for COG-I and CI, i.e. Rs.5500-9000 and Rs.6500-10500 respectively from 1.1.96. Thus from 1.1.96, a higher pay scale is prescribed for the post of CI and it has become a promotional post for the feeder post of COG-I from 1.1.96. The request of the applicant for fixing his pay in the post of CI under FR 22C has been rejected vide order dated 27.11.1995. Therefore, he has filed this OA seeking reliefs praying for directions to quash and set aside the orders dated 27.11.95 and 3.7.2000. He has also sought further direction to the respondents to refix his pay as CI under FR 22C and to revise his pension accordingly from 1.11.94.




4. Respondents have contested the case and have stated that contents of Railway Board's letter dated 4.5.87 are not applicable in case of the present application, as the posts of COG-I and CI are in the same scale of pay i.e. Rs.1600-2660. According to Railway Board's letter dated 20.3.87 there will be no additive value towards DA, HRA, CCA or for any purpose whatsoever on any special pay admissible on or after 1.1.86. According to respondents, FCPC has now recommended separate pay scales for the aforesaid two posts which came into effect from 1.1.96, whereas the applicant has retired on 31.10.94. Therefore, he is not entitled for fixation of pay in the grade introduced after his retirement. Respondents have further stated that the Railway Board vide its letter dated 24.5.99 issued order that where the feeder posts and promotional post have duties and responsibilities of greater importance than the feeder posts, the benefits under Rule 1313 (FR 22) is allowed in case of promotion ordered between 1.1.86 and 31.12.95 to some of the categories linked therewith. The category of COG-I/CI has not been included. So a reference was made to the Railway Board on 7.2.2000 seeking clarification as to whether the benefits of fixation in terms of Railway Board's letter dated 24.5.99 was to be extended to COG-I(Rs.1600-2660) on promotion as CI(Rs.1600-2660)+ 200 special pay. Railway Board vide its letter dated 25.5.2000 (Annexure V to the reply) has advised that as the COG-I on promotion as CI has been fairly compensated for increase in duties/responsibilities by payment of Rs.200/- as special pay, there is no merit in Railway's



proposal. COG-I was entitled for special pay of Rs.200/- p.m.as monetary gain but the special pay is not to be counted for pay fixation and other pensionary benefits, as per Railway Board's extant rules laid down in its letter dated 20.3.87. In view of the aforesaid submissions, the OA is devoid of merit and may be dismissed accordingly.

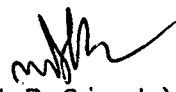
5. Heard the contentions of rival contesting parties and perused the records. During the course of arguments, learned counsel for applicant admitted that applicant was being paid special pay of Rs.200 in the grade of CI but special pay of Rs.200 should have been taken into account for fixation of his pay under FR 22C and he ought to have been given the benefit of higher pension. He also submitted that applicant is prepared to refund the amount of Rs.200 (special pay) paid to him during the period he was holding the post of CI provided his pay in the grade of CI is fixed under FR 22C. On the other hand, learned counsel for respondents stated that applicant has retired on 31.10.94 and he has approached this Tribunal after a lapse of several years and, therefore, he cannot be allowed this benefit of fixation of higher pay under FR 22-C.

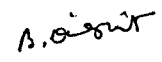
6. After hearing the learned counsel for parties and perusing the records, we find that immediately after his retirement applicant had submitted a representation for fixing his pay under FR 22C which has been rejected by the respondents on 27.11.95. According to the Railway



Board, the post of CI carries only additional duties and responsibilities as compared to that of COG-I. According to them, the applicant was actually performing the additional duties for which he was duly compensated by payment of Rs.200 as special pay. It is only after the FCPC's recommendations that two different scales for the post of COG-I and CI have been introduced as the post of CI has become the promotional post involving greater responsibilities. Since applicant has retired on 31.10.94, the benefit of the recommendations of FCPC cannot be extended to him.

7. In view of the aforesaid position, we find the OA devoid of merit and the same is accordingly dismissed. No costs.


(M.P. Singh)
Member(A)


(Birendra Dikshit)
Vice-Chairman(J)

/gtv/