

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO:878/2001

Date of Decision: 26/11/2003

Vithalsingh Deosingh

Applicant

Shri K.B.Talreja

Advocate for the  
Applicant

Versus

Union of India & 4 Ors.

Respondents

Shri V.S.Masurkar

Advocate for the  
Respondents

CORAM:

Hon'ble Shri S.K.Agrawal, Member(A)

Hon'ble Shri S.G.Deshmukh Member(J)

- (i) To be referred to the reported or not? No,
- (ii) Whether it needs to be circulated to other Benches of the Tribunal? —
- (iii) Library. —

  
(S.K.AGRawal)  
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION No.878/2001  
DATED THE 20<sup>th</sup> DAY OF NOV, 2003

CORAM: HON'BLE SHRI S.K.AGRAWAL, MEMBER(A)  
HON'BLE SHRI S.G.DESHMUKH, MEMBER(J)

Shri Vithalsingh Deosingh,  
Motor Lorry Driver Grade-I,  
Under Sr.D.E.E(TD)/Bhusawal,  
R/o.Jamner Road, Kanayalal,  
Ploit Behind Ashta Pooja Devi,  
Bhusawal.

... Applicant

By Advocate Shri K.B.Talreja

V/s.

1. The Union of India,  
Through The General Manager,  
Central Railway, Mumbai CSTM.
2. The Divisional Railway Manager,  
Central Railway, Bhusawal,  
Division, Bhusawal, Dist.Jalgaon
3. Shri Salsuddin Amaddin/Driver under  
CIOW/(W/S)/Bhusawal

... Respondents

By Advocate Shri V.S.Masurkar

(ORDER)

Per Shri S.K.Agrawal, Member(A)

This OA has been filed by the applicant seeking following reliefs:-

- (i) This Hon'ble Tribunal may kindly be pleased to direct the Respondents to fix the pay of the applicant as Motor Mechanic Grade-I with effect from 1.1.1984 in the scale of Rs.1320-2040 as per letter of the D.R.M. Bhusawal dated 17.6.1999(A-1) according to which the Posts of Motor Mechanic and Motor Drivers have been merged from the year 1988.
- (ii) This Hon'ble Tribunal may kindly be pleased direct the Respondents to award the consequential benefits including Seniority, promotion, arrears due to refixation along with 18% interest on delayed payment, from the date the applicant is due to be paid as per (A-1) till the date of actual payment.

2. The facts of the case in brief are that the applicant was initially appointed as Casual Labour w.e.f. 22.9.1966 and he was regularised as Khalasi w.e.f. 22.9.1970. After successfully passing the trade test, he was promoted to the post of Motor Lorry Driver w.e.f. 29/4/1977. There were two different cadres viz. that of Motor Mechanics and Motor Lorry Drivers. The applicant has stated that he was promoted to the post of Motor Mechanic Grade-II w.e.f. 30.9.1981 i.e. in the grade of Rs.1200-1800 from the grade of Rs.950-1500. The applicant has further submitted in the OA that he was promoted to the post of Motor Mechanic Grade-I w.e.f. 10.1.1989 i.e. grade of Rs.1320-2040 from the earlier grade of Rs.1200-1800. It has further been submitted by the applicant that he came to know from the seniority list as being promoted w.e.f. 1.3.1993 and the applicant himself has been shown to be promoted w.e.f. 1/3/1993 in the scale of Rs.1400-2300 (RPS) as MCM, Sr.No.2 was not even in the scale of Rs.1320-2040(RPS), Since that person was promoted from 22/6/1993. It is further mentioned by the applicant in the OA that vide DRM BSL/P/Mech + Driver dated 17.6.1999 in the cadre of Motor Mechanic and Motor Lorry Driver was merged from 1/10/1988 and the name of the applicant has been shown as Motor Driver Grade-I w.e.f. 1.1.1984. The applicant has further submitted that though he was promoted as Motor Driver Grade I from 1.3.1993, but in effect he has working on that post from 1/1/1984 as has been mentioned by the respondents in all th lists and letters issued from the respondents office. The applicant's counsel has drawn our attention to letter dated 17.6.1999 issued

from the DRM's office, Bhusawal wherein it has been mentioned that the applicant who has been shown as Motor Driver Grade-I w.e.f. 1/1/1984 and in the remarks column it has been mentioned as MSF Grade-I and shown in the seniority at Sr.No.4 of the Motor Drivers list.

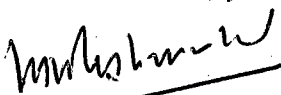
The applicant has therefore claimed that since he has been working on Grade-I w.e.f. 1/1/1984, though officially he was promoted in the year 1989, he is entitled for difference of arrears of pay on the post from 1984 to 1989.

In the reply the respondents have stated in para-7 at page-59 Annexure that the applicant has no case whatsoever and he has built a case solely on the basis of the typographical mistake in the letter dated 17/6/1999. According to the respondents, the cause of action if at all exist for the applicant, then it is the office order issued on 19.5.1986 wherein his position after merger of the cadre is clearly stipulated and it is clear that he was Motor Driver Gr.II and not Motor Driver Gr.I. In reply, the applicants counsel has vehemently argued that if it was a mistake it could have happened at one or two places but not in all the correspondence where it has been shown that applicant has been working in the post of Grade-I w.e.f. 1/1/1984. The applicants counsel has drawn our attention to various lists wherein applicant has been shown as working on the post w.e.f. 1/1/1984.

We have heard the learned counsel of the applicant as well as the respondents. We have also gone through all the facts of the case and the materials placed before us in this regard. ~~The~~ there could have been a typographical error as stated by the respondents counsel but such typographical error cannot take place

in large number of letters, lists and communications released by the respondent authorities with regard to the applicant. We therefore do not find any strength in the respondents counsels version on this point. As per the promotion order issued by the respondent authorities, the applicant was promoted to the Motor Driver Grade-I w.e.f. 10/1/1989 (Grade Rs.1320-2040) from the grade of Motor Mechanic Grade-II (Rs.1200-1800). The applicant is therefore entitled for the difference of arrears of pay from 1984 to 1989. The respondents are accordingly directed to put the applicant in Grade-I of Motor Driver w.e.f. 1.1.1984 and award consequential benefits including seniority, promotion, etc from 1.1.1984. The respondents are further directed to comply with this exercise within a period of <sup>12</sup> weeks from the date of receipt of copy of this order.

With the above remarks the OA is allowed. No orders as to costs.

  
(S.G. DESHMUKH)  
MEMBER(J)

  
(S.K. AGRAWAL)  
MEMBER(A)

abp

CP No 35/04 An  
orders on 31/04

for  
Payee

By notification  
advised to 6/5/04

Dated: 6.5.2004 (15)

None for the applicant.  
Respondents by Sh. V.S. Masurkar  
List the case on 17.6.2004.

WV  
(S.G. Deshmukh)  
as (5)

WV  
(A.K. Agarwal)  
Vc

WV

9/11  
7/11

CP-35/2004 17/6/2004-14.

Applicant by Shri K.B. Taleja.  
Respondents by 1 and 2 by  
Shri V.S. Masurkar.

learned counsel of the respondents  
has filed a copy of order dated  
16/3/2004 in Writ Petition No.  
1921 of 2004 whereby pending  
the hearing and final disposal  
of the writ petition, the  
operation of the Tribunal's order  
dated 20/11/2003 in OA No.  
878/2001 has been ~~stated~~ stayed. IN

... P.T.O.

CP 35/84  
disputed -

10  
3  
AP

order issued  
on 07/7/04  
10.5

16  
~~CA No. 878/2001~~ has been  
stated. <sup>16</sup> In this backdrop  
dismissed as <sup>16</sup> the CP is not maintainable  
in limine however with  
liberty.

16  
(S.G. Deshmukh)  
M(J)

alp.

16  
(V.K. Majetha)  
V.C.