

(See rule 114)

Gma 14 159/90

OA/TA/RA/CP/MA/PTOS.....of 20...93

Sush Madaan Testing Applicant(S)

Versus

V. a. G. L. Hing Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	order sheet.	A - 1
2 -	judgment of the 9-95- 14-	A - 2
3 -	A. B. Copy	A - 18

Certified that the file is complete in all respects.

Signature of S.O. *[Signature]* 15/08/2020 Desai

Signature of Deal. Hand

B. C. Wiedig
14-6-12

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the fourteenth day of September 1995.

Review No. 5/93 in O.A.No.159/90

HON'BLE MR.JUSTICE B.C. SAKSENA - V.C.

Hon'ble Mr. V.K. Seth - A.M.

1. Subh Narayan, aged about 40 yrs,
S/o Sri Garib L.D,
102 (c) R.D.S.O., Lucknow ... Applicant
By Advocate : Sri G.H. Nazvi
2. Anand Kumar, aged about 30 years,
son of Swami Dayal, resident of
480/52. P.J.A. Badshah Daliganj,
P.S. Hasanganj, Lucknow Applicants
By Advocate : Sri G.H. Nazvi.

VERSUS

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. C.I.O.W., Northern Railway,
Charbagh, Lucknow
3. Divisional Railway Manager,
Northern Railway,
Hazratganj, Lucknow ... Respondents
By advocate :

O R D E R (O R A L)

HON'BLE MR.JUSTICE B.C. SAKSENA, V.C.


We have gone through the Review Application as also the records of the O.A. and order passed after due consideration with the pleadings of the parties. One of the ground raised in the application is that the applicant has submitted an application regarding impleadment of Sri Sudhir Kumar Misra, as respondent. One of the ground for rejecting the O.A. was that Sri Sudhir Kumar Misra who had been

1
Per ...2....

appointed and working in place of the applicant had not been impleaded as a respondent.

2. We have perused the record of the O.A.
No such application is there on the record of the O.A.

3. The Review Application, therefore, lacks merit and is accordingly dismissed.


MEMBER (A)


VICE-CHAIRMAN

Lucknow Datgd September fourteenth 1995.

K.N.Misra

R-A-NO. 5/1993/
no. 159/90

The R.A. no. 5/93
was filed by an applicant
on 13/8/93 against the
Judgment dt 21.10.92
which is already
time barred. The Hon'ble members
~~has~~ who decided original
appeal leave already been
ratified.

Hon'ble v.c. may kindly ask
for Constitution of a suitable
bench & date for further
course of action.

With before the bench of
Hon'ble v.c. & Hon'ble members
Dr V.K. Seth on 14/9/95

for
v.c.

P
2
4/9

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, 'LUCKNOW

Re: O.A. No. 159 of 1990

Review No - 5 of 1993

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 12-1-93

Date of Receipt by Reg. X

Deputy Registrar (J)

Subh Narayan and another ... Applicants

Versus

Union of India & others ... Respondents

Review Application against the
Judgment dated 21-10-1992 u/s 22
of the CAT Act, 1985.
====

The applica-nts most respectfully beg to pray
for favour of a kind review of the judgments aforesaid
in the circumstances and facts mentioned hereunder :-

1. That a plain reading of the original application
aforesaid would make it clear that the applicants had
plainly stated in their application that they were also
working as Valvemen, as those who had gone to the
Hon'ble High Court and C.A.T. Lucknow Bench for conti-
nuance of payment of their wages in the pay scale of
Rs 260-400/- under Writ Petition No. 2383 of 1985 (now
stands transferred to C.A.T./Lucknow) O.A. No. 295 of

contd..2

श्रीमान राम
आनन्द कुमार

- 2 -

1987 and 147 of 1988 should also be extended to the applicants as their cases were similar and analogous to all others drawing their wages in the pay scale Rs 260-400 (RS). They were also put to the scale of Rs 260-400/- from 15-7-1986 along with all other valvemen under the respondents.

2. That the applicants moved an application on 10/5/90 for quashing the impugned order of the DRM Northern Railway, Lucknow (Annexure - 2 of the application) on the grounds that Hon'ble C.A.T. Lucknow had already granted a stay in continuing payment of wages to the Valvemen in O.A. No. 295 of 1987 and accordingly the effect of the said stay (Annexure I of application) should also have an application in our case. Since then the applicants continued receiving salary in pay scale Rs 260-400 as per interim orders passed by the Hon'ble Tribunal on the above said application and the orders of the DRM N.RLY Lucknow (Respondent No.3) were not given effect on the applicants.

3. That the applicants did not narrate the facts of our case except making a reference to the O.A. No.295 of 1987 and the kind stay order of the Hon'ble C.A.T. Lucknow. The applicants were also two Valvemen among all others Valvemen under the Respondents.

- 3 -

4. That admitted by the applicants were recruited as Khallasi, which is an artisan category, but with the grant of the status of temporary Railway servants, the applicants were put to work as Valvemen. The incumbents of the posts aforesaid were to shoulder higher responsibility for which higher ~~for~~ standard of skill than that of Khallasis were unavoidable and essential. This category/post is a workshop category. As per 3rd pay Commission's recommendations, the Defence Department and some of the Railway Establishments viz. D.L.W. Varanasi, Eastern Railway ~~an~~ had allotted a better pay scale of Rs 210-290 to the Valvemen under them w.e.f. 1-1-73. A copy each of these orders are attached herewith ~~for~~ as Annexures 3, 4 & 5 for kind perusal of the Hon'ble Tribunal and records with them. The duties and responsibilities of the Valvemen of the D.L.W. mentioned in Annexure 3, are the same as those performed by the Applicants under the Respondents. In support of this contentions, copy of the original order of Respondent No. 3, annexed herewith as Annexure 6, containing the duties etc. of the Applicants are the admitted document.

5. That in the light of the facts stated in the foregoing paragraph, the applicants accrued their entitlements to the pay scale of Rs 210-290 (RS) from the dates they were granted the status of the temporary railway servants

शुभनारायण
आनन्द कुमार

(viz Subh Narayan from 19-8-76 and Anand Kumar from 12-6-77) for the reasons mentioned in para 4 above being the dates after the date of effect of the Pay Commission recommendation i.e. 01-01-73.

6. That with the implementation of the Re-classification Scheme w.e.f. 1-8-78, the applicants were ought to had been reclassified as skilled artisan workmen in pay scale Rs 260-400 (RS).

7. That the applicants were already drawing salary in the pay scale of Rs 260-400 (RS) on the strength of this Hon'ble Tribunal's stay order in the O.A. No.295 of 1987 and the same is still in vogue, not being vacated.

8. That Railway Board's letter dated 13-11-82 envisaged the scheme of re-classification of Rly Artisan staff. As per the said scheme all the semi-skilled posts were re-classified as skilled posts in scale Rs 260-400/RS.

9. That the so called cadre restructuring scheme effected from 1983 was not applicable to the artisan cadre valvemen but applicable to non-artisan cadre staff like Peons, Jamadar, Daftries etc.

10. That as a result of non-allotment of the Semi-skilled pay scale of Rs 210-290(RS) from 1-1-73, as had been done by other Departments of the Central Govt. and some sister

Rly establishments like D.L.W., Eastern Railway etc. the Valvemen in the Artisan Cadre in the ^{some} Rlys were given the inferior pay scale of Rs 210-290(RS) after classification of the Rly Board vide their letter No. E(P&A)I-84/FE-2/5 dated 5-12-1984, annexed herewith as Annexure 7.

11. That being aggrieved with the decision of Annexure 2, all the Valvemen under the Respondents had approached the Hon'ble Tribunal for justice by awarding a judgment in favour of the applicants for the pay scale of Rs 210-290 w.e.f. 1-1-73 or their dates of appointments to the post of Valvemen and Rs 260-400 from 1-8-78 under the Re-classification of Artisan Cadre Staff of Railways.

12. That it is respectfully submitted for reconsideration of the Hon'ble Tribunal against their contentions in respect of the Respondent No.3's giving the pay scale of Rs 260-400 to the Valvemen under them by mistake without considering all aspect on the equation of the posts vis-a-vis other artisan posts in Semi-skilled and skilled grade etc. that there is no more a Semi-skilled grade in the artisan cadre of the Rly cent percent semi-skilled posts have been upgraded to skilled ones. Therefore, there cannot ^{be} a new semi-skilled category of Valvemen, nor can that grade be created by this impugned order of the hon'ble Tribunal

- 6 -

In the circumstances, the Hon'ble Tribunal ought to review their own judgment.

13. That again it is pointed out for the consideration in their review that the Respondents' statement about the first order having been issued by a subordinate authority i.e. Divisional Superintending Engineer, Lucknow, is a total lie. The copy of the Annexure -6 is the documentary ^{evidence} against the false statements of the Respondents. Both the orders were issued by the same authority i.e. Divisional Railway Manager, Lucknow. Therefore accepting the false statements of the Respondents in reverting the applicants in a derogatory pay scale would be bad in the eyes of laws.

14. That as stated above elsewhere that the applicants were entitled to the pay scale of Rs 210-290 (R.S.) with effect from the dates of their appointments to the post of Valvemen, Hon'ble Tribunal is prayed to clarify as to whether the impugned judgment for the pay scale of Rs 210-290 (RS) ^{Will apply} with effect from 1-1-73 (in this case from the dates of their appointments to the posts of Valvemen).

15. That it is pertinent to mention here that as the case of the applicants was a follow up one, the impugned judgment should be subject to the decision in the main case i.e. O.A. No. 295 of 1987. The Hon'ble Tribunal

- 7 -

is requested to kindly clarify this point as to save them from their exploitations in a lower scale if the remaining Valvemen in the aforesaid case are awarded a higher pay scale of Rs 260-400 (RS) on the grounds of same works same pay.

16. That it is also pertinent to lay before the Hon'ble Tribunal for consideration for natural justice that the Advocate engaged by the Applicants (Late Sri G.H. Naqvi) had expired while he was pursuing this case. After his death, this case was given to one Sri Pandey, Advocate for further actions, but he did not prepare the rejoinder to the Counter statements of the Respondents, nor did he submit the valid documentary evidences against the Counter of the Railway Administrations. As there remained a gap in the pursuation of the applicants' case by the Advocate due to reasons best known to him, the Applicants deserve sympathy and reconsideration of the claims of the Applicants.

17. That the Applicants most respectfully pray to the Hon'ble Tribunal to kindly review their judgments dated 21-10-92 in this case in the circumstances and facts mentioned herein before for natural justice to the Applicants. Also prayed to the Hon'ble Tribunal to kindly consider to link the claims of the applicants with the main case as all the valid evidences mentioned

सुभनारायण
आनन्द कुमार

herein before might be filed for consideration of the Hon'ble Tribunal to protect the applicants from unfair labour practices with them and also for being met with the principles of natural justice.

सुभ नारायण
(Subh Narayan)

Lucknow:

Dated: 12 -1-1993

आनन्द कुमार
(Anand Kumar)
Applicants

Verification

We, Subh Narayan, S/o Sri Gharib, aged about 42 years, r/o LDA-102(C), R.D.S.O. Colony, Lucknow and Anand Kumar, S/o Sri Swami Dayal, aged about 32 years, r/o 480/52, Mohalla Badshah, Daliganj, P.S. Hasanganj, Lucknow, do hereby verify that the facts stated from paras 1 to 16 are believed to be true to the best of our knowledge and we have not suppressed any material facts.

Lucknow:

सुभ नारायण
(Subh Narayan)

Dated: 12 -1-1993

आनन्द कुमार
(Anand Kumar)
Deponents

9
Annexure-3

सं. 221

REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

प्रतापारण

EXTRAORDINARY

भाग II—खण्ड 4

PART II—Section 4

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 21] नई दिल्ली, शनिवार, दिसम्बर 29, 1973/वी. 8, 1895
No. 21] NEW DELHI, SATURDAY, DECEMBER 29, 1973/PAUSA 8, 1895

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह प्रमाण संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF DEFENCE

NOTIFICATION

New Delhi, the 24th December, 1973

S.R.O. 26-E.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Civilians in Defence Services (Revised Pay) Rules, 1973.
(2) They shall be deemed to have come into force on the 1st day of January, 1973.
2. Categories of Government servants to whom the rules apply.—(1) Save as otherwise provided by or under these rules, these rules shall apply to persons appointed to civil services and posts in Defence Services whose pay is debitable to the Defence Services Estimates.
(2) These rules shall not apply to—
 - (a) Government servants in a Class I service or holding a Class I post;
 - (b) permanent employees of former Indian States absorbed in civil services and posts in connection with the affairs of the Union, but governed by the pre-absorption conditions of service under the Central Civil Services (Part B States Transferred Employees) Rules, 1953;
 - (c) persons locally recruited for service in Diplomatic, Consular or other Indian establishments in foreign countries;
 - (d) persons not in whole-time employment;

(49)

T.C.

सुमनाराम

भारतीय रेल
लोकोमोटिव इंजन कारखाना
(वाराणसी-221004 (उ.प्र.))
INDIAN RAILWAYS
DIESEL LOCOMOTIVE WORKS
VARANASI 221004 (U.P.)

Gram: DIESELOCO
Telex: 054-230

सं.संख्या
No.

नियमित
Office of the G.M.(P),
तारीख
Dated 26/5/1984.

27/172/59E(SEN)Pt.III(Semi-Skd.)

The Town Engineer,
Research Designs & Standards Org.,
Lucknow - 226011.

Sub: Pay scale of Valvemen in C/Engg.

Ref: Your letter No.39-E/C/RDSO/Pt.,
dated 6.4.1984.

The duties performed by the Valvemen in
D.L.W. are indicated in the list enclosed.

The post of Valveman was initially crea-
ted in Semi-skilled Gr.Rs.210-290, which has
since been replaced by Gr.Rs.260-400(Skilled)
in light of Riv. Board's letters No.E(P&A)/182/
JC/1 dt.13.11.82, 2.12.82 and 15.12.82.

There are 7 Over-head Tanks and five
Pump Houses in D.L.W.Township.

DA/- As above.

for General Manager/P.

SRQ:

T.C.

सुभार्य

Revised VENUE OF ADVISORY BOARD FOR CLASS IV (W/PS STAFF) OF 2011 2012, 2013.

Material Checker
105-135(AS)/225-308(AS)

Seniority-Cum-Suitability

Skilled Personnel @

Skilled Mason &

12-13(AS)/20-40(AS)

BY Operator
Subject to Trade Test.

Storeman
80-110(AS)/
210-270(AS)

Storeman
75-110(AS)/
210-270(AS)

General
75-110(AS)/
210-270(AS)

Chatter
75-110(AS)/
210-270(AS)

Cock-pun-
75-110(AS)/
210-270(AS)

S.S.
75-110(AS)/
210-270(AS)

Mate
80-110(AS)/
210-270(AS)

BY Operator on the basis of Seniority-Cum-Suitability/Trade Test as prescribed

Bellocar
70-65(AS)/
196-232(AS)

Thelast
70-65(AS)/
196-232(AS)

Truck Cleaner
70-65(AS)/
196-232(AS)

Chowkist
70-85(AS)/
196-232(AS)

Driver
70-85(AS)/
196-232(AS)

Chainman
70-85(AS)/
196-232(AS)

9 (ii) Staff with 3 y.s. of service or more are eligible for promotion to class III posts in the year subject to passing the selection. Their respective names are eligible for promotion to class III posts in the year subject to passing the selection. Their respective names are eligible for promotion to class III posts in the year subject to passing the selection.

(Enclosure to Letter No. ULM/AS/Aven.3(C/Enj3.) dated 27.3.81) General Manager (G).

T.C.
General Manager

No. 561E/II D-A(PC)

Office of the
Divl. Rly. Manager's,
Lucknow.
Dated: 20.4.85.

The SEN/N.Rly./CB/LKO. and BSB.
The AEN/I,II/N.Rly./LKO., RBL,
SLN, PBH, FD & PRG.

Copy to:
The DSE/C, I, II, III./Lucknow.
The Sr. DAO/Lucknow.

Reg: Anamely with regard to pay Scale allotted
to Valve Operator/Valve-Man.
.....

In continuation of this office letter No. 561E/
II D-A/PC dt. 16.1.85. It is further clarified by the
D.S.E./(Co-ord)/LKO that the Valve-Man may be treated as
artizen and they may be given Scale of Pay i.e. Rs. 260-400
and should be given benefit under re-classification and
their duty list as artizen will be as under:-

DUTY LIST OF VALVEMAN.

1. To open and close water supply at schedule timings and during emergencies. He will also control the valves for diversion of water and for balancing etc.
2. Minor repairs of leakages and float valve connected with the overhead tank and indicators provided. He would also undertake any minor repairs required in connection with sluice valve, stop cock, non-return valve etc. as the case may be.
3. He will maintain records as indicated by his Inspector Incharge in connection with water levels in the tanks, periods of pumps being out of commission, power failures.
4. In case of any crysis he will also be responsible for bringing the same to the notice of his incharge.
5. He will charge the chlorine solutions at required hours in the Overhead tanks.

B. K. (SINHA)
For Divl. Railway Manager,
Lucknow.

G. K. Sinha
19/4/85

Lc.

3/4/85

14 *Answer-7*

GOVERNMENT OF INDIA (DHARAT BASKAR)
MINISTRY OF RAILWAYS (RAIL MINISTRY)
(RAILWAY BOARD)

No.E(P&A)I-P4/FE-2/5

New Delhi, Dated 5-12-1984

The General Managers,
All Indian Railways, CLW, DLW, ICF, Metro Rail, Calcutta
Wheel & Axle Plant, Bangalore.

The General Managers (Const.),
Southern Railway, Bangalore.
Northeast Frontier Railway, Maligaon.

The Director General, R.D.S.O., Lucknow.

The Chairman, Railway Service Commission, Allahabad/Bombay/
Calcutta/Madras/Muzaffarpur/Secunderabad/Gauhati/Bangalore/
Patna/Tirupur/Bhopal/Chennai/Chandigarh/Ajmer/
Ahmedabad/Firozpur.

The Chief Administrative Officer, Central Organisation for
Modernisation of Workshops, 1-Eastern Avenue, Mahatma Bhawan,
New Delhi.

The Chief Engineer, Railway Electrification, Allahabad.

The Principal, Railway Staff College, Vadodra.

The Chief Administrative Officer, MTP(Railways), Delhi/
Bombay/Madras.

The Principal, Indian Railways Institute of Mechanical &
Electrical Engineering, Jamalpur.

The Principal, Indian Railways Institute of Signal Engrg. &
Telecommunications, Secunderabad.

The Principal, Indian Railways Institute of Advanced Track
Technology, Pune.

The Secretary, Railway Rates Tribunal, Madras-23.

The Railway Liaison Officer, New Delhi.

The Director, Rail Movement, Calcutta.

The Joint Director, Rail Movement, Mughalsarai.

The Chief Mining Adviser, Ministry of Railways, Dhanbad.

The Joint Director, Iron & Steel, 2-Koilghat Street, Calcutta.

The Chief Administrative Officer, Indian Railways Diesel
Components Works, Nabha Road, Patiala.

The Commissioner, Railway Safety, Lucknow.

....2/-

T.C.

Signature

No.E(P&A)I-84/FE-2/5

New Delhi, Dtd. 5.12.1984.

Copy forwarded to:-

PA & CAOs, All Indian Railways, CLW, DLW, ICF, Metro Rail, Calcutta, MTP(R), Delhi/Bombay/Madras.

Wheel & Axle Plant, Bangalore.

Northeast Frontier Railway(C), Maligaon.
Southern Railway(C), Bangalore.

COEP, Maharani Bagh, New Delhi.

Diesel Component Works, Patiala.

Joint Director, Finance, RDSO, Lucknow.

Pay & Accounts Officer, Ministry of Railways, Rail Bhavan, New Delhi.

The General Secretary, IRCA, New Delhi for information.

K. Venkatesan

(K. Venkatesan)
Addl. Director, Estt. (P&A)
Railway Board.

No.E(P&A)I-84/FE-2/5

New Delhi, Dtd. 5.12.1984.

Copy (with 25 spares) forwarded to:-

1. The General Secretary, NFIR, 3-Chelmsford Road, N.Delhi.
2. The General Secretary, AIRF, 4-State Entry Road, N.Delhi.
3. Copy to all Members of the National Council, Departmental Council and Secretary, Staff Side, National Council, 13-C, Ferozeshah Road, New Delhi.

Spencer

for Secretary, Railway Board.

Copy to:-

PSS to CRE, F.C., M.E., M.T., M.S., Adv. (IR), Adv. (F), DE, Secy.

F(E)I, II & III,

ERR-I, II, III & IV.

E(NG)I, II, Cash I, II, E(G), E(O)I, II & III, A/C III (with 10 spares) and E(LR)III. **I (60 spares)**

Adv. to All, DE(R), Ld. F(N), JDE(R), JDE(F), JDE(E) etc.

Te.

सुमनराज

S.A. No. 159 of 1990.

Shubh Narayan & one another..... Applicants.

Versus

Union of India & others..... Respondents

Hon'ble Mr. K. Chagga - A.M.
Hon'ble Mr. S.N. Prasad - J. M.

(By Hon'ble Mr. Chagga - A.M.)

This case raises xx a short point. The applicants are employees with the Northern Railway. Initially their appointment was on the post of Khallasi and in due course they obtained the status of Temporary Railway Servant and put on C.P.C. scale of Rs. 196-232. Khallasi. It would appear with effect from 15.7.86 they were put to work as Valve Man on Scale of Rs. 260-400 (350-1500) (Revised). However by the impugned order dated 11.4.90, they were put back to the scale of Rs. 196-232. Aggrieved by the above order, the applicants approached this Tribunal with a prayer that the order dated 11.4.90 be quashed and applicants be continued on the scale of Rs. 260-400 (350-1500) (Revised).

2. The application is resisted by the respondents, who have pointed out that the post of Valve Man is unskilled post in the grade of Rs. 196-232. The Railway Board issued a letter on 13.11.82 by which the Artisan Staff was re-classified by which 50% of the existing strength of unskilled categories was up-graded to Semi skilled grade of Rs. 210-290. In 1983 there was further development wherein by way of re-structuring, the Class IV posts, to the extent of 50% were up-graded from scales of Rs. 196-232 and Rs. 200-250. Not

satisfied with these scales, the Valve Men made a representation to the Railway Board which by letter dated 5.12.84 clarified that the Valve men working in Grade 196-232 may be fitted either in terms of instructions contained in letter dated 13.12.82 or on the basis of re-structuring vide order dated 29.7.34. The matter was considered at Division level and the Divisional Superintendent Engineer Lucknow passed orders placing them on scale of Rs. 260-400 vide order dated 19.4.85. It is pointed out by the respondents that this scale was given by mistake and the entire matter was re-considered by D.A.M. who has taken into consideration the various circulars of the Railway Board and passed the orders cancelling the order dated 19.4.85 by which the scale of Rs. 260-400 was given to the Valve-men. It would appear that number of petitions were moved by the Valvemen who were aggrieved by the grant of lower scale. Some of these petitions are still pending, and by virtue of stay orders against the lower pay scale, the Valvemen are still continued on scale of Rs. 260-400. It is also pointed out that the Valvemen are not entitled for the grade of Rs. 260-400 and that the order dated 19.4.85 passed by the Divisional Superintendent Engineer, Lucknow, who was not competent authority on this issue, cannot be said to be a valid order as it is against the instructions of the Railway Board. It is also indicated that 50% of the posts of Valvemen in Grade of Rs. 196-232 were up-graded to scale of Rs. 210-290 and as such the applicants who got the benefit of higher scale by wrong application of the instructions are not entitled for the scale.

18

We have heard the learned counsel for the parties. It would appear that the question of fixation of proper grade to Valveman came up before the Railway Board from time to time and also P.N.M. considered during the year 1984. From the record, it is noticed that the post of Valveman was fixed on scale of Rs. 210-290. In these circumstances it cannot be said that the applicants should be put back to the original scale of Rs. 196-232. Even if scale of Rs. 260-400 was not to be given to them as they were given that scale by mistake at the lower level without considering all aspect on the equation of the posts Vis-a-vis other Artisan posts in Semi-skilled and skilled grade etc. Having considered the facts of the case and also material on the record, the applicants undoubtedly were entitled for the scale higher than what was given to them i.e. 196-232, the scale above this is Rs. 210-290, the applicants are entitled for this scale. Accordingly we direct the respondents to fix the pay of the applicants in this scale (Rs. 210-290). As the amount already paid to them, was due to an error on the part of the Administration. the excess amount so paid in the higher scale Rs. 260-400 may not be recovered from the applicants. We also make it clear that if any junior of the applicants are already on scale of Rs. 260-400, in such a case the applicants should be continued on that scale only. The application is allowed in above terms. The parties to bear their own costs.

Member (J)
Dt: Oct. 21, 1992.
(DPS)

Member (A)

Copy to
Rg. Office

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

✓ OA/TA/RA/CP/MA/PT159..... of 20-90
Subh Narayan Das Applicant(S) 3

Versus
U. O. G. d. others Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 - Amolex		A - 2
2 - Order sheet		A - 5
3 - Judgment dt. 2-1-92		A - 2
4 - Award		A - 1
5 - OA for A.		A - 17

Certified that the file is complete in all respects.

De. by 15/6/12
Signature of S.O.

Signature of Deal. Hand

B. C. Bichay out
14-6-12

IN THE COURT OF THE DISTRICT JUDGE

OA 159/90

CAUSE FILED

~~159/90~~

1993

S. Narayan

VERSUS

APPLICANT

VERSUS

D.O. 8 (N.R.)

PART (A)

PART (A)

✓ Check List A1-A2 A to A

✓ Order Sheet A3-A6

✓ Final Judgment Dated A7-A8 - Dated: 21.10.92

✓ Petition Copy with Power A10-A19

Annexure

✓ Counter with Power A20-A21

Returner Affidavit

PART (B)

B, 29-1346 to

PART (C)

C 47 + C 61 to A

One Copy of Petition
for Party

Chandra Mohan
15.10.93



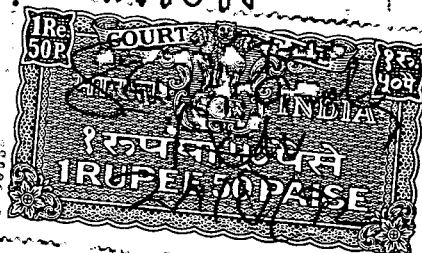
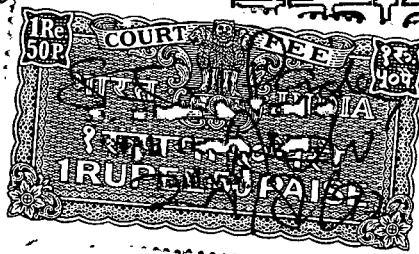
S. No. 36

श्रीमान

Central Administrative Tribunal, Lucknow
महोदय

वादी (मुद्दै) Applicant

मुद्दै (मुद्दालेह)



Shri Narain & Others

Applicant

Vs.

Union Of India & others

बनाम

प्रतिवादी रेष्पान्डेन्ट

Application नं० मुकद्दमा 159

सन् 1990 पेशी की ता० 24-8-

१९९२ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री लतीश चन्द जोषी एडवोकेट

Oush Bar Mahoday
वकीलश्री लतीश चन्द जोषी एडवोकेट महोदय
एडवोकेट

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरबी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व नगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरोकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर - युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने परोकार को मेजता रहूंगा। अगर मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
P. K. Singh
24/8/92①. शुभकाश चण्ड
हस्ताक्षर
②. Anil Kumar

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

24

महीना

8

सन् १९९२ ई०

Accepted

Accepted

A

24/8/92

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

10/5/90

Y A

Registration No. 159 of 1989

APPLICANT(S) Subh Narain

RESPONDENT(S) U.O. 2 (N.R.)

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ?
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation/ Vakalatnama been filed ?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relies upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and paging done properly ?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

A2

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively ?
 - d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

YA

YA

No

YA

YA

NA

YA

YA

YA

dinesh/

159/90/5
(1)

A3

11/5/90

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

Shri G.H. Naqvi, learned counsel for the petitioner is present. Heard, the learned counsel. The application to join together is allowed. There are two other petition no 295/87 & 147/88 dealing with the same subject matter in respect of similarly situated persons. In OA 295/87 stay order was granted on the basis of another writ petition no. (numbered) 2353/85 pending in the High court, the record of which has not been transmitted to ~~the~~ ^{this Tribunal} ~~the~~ ^{the} Tribunal. Shri G.H. Naqvi, the learned counsel for the applicant has taken ⁱⁿ letter from ^{the} ~~the~~ ^{the} Tribunal to get record transmitted. He states that the record is to be transmitted before 2/7/90.

We are of the opinion that the petitioners have to be treated at par with the petitioners of the other petitions referred to above.

Therefore, issue notice to the respondents to show cause as to why the petition may not be admitted and the interim prayer ^{made} ~~prayer~~ for be not granted.

or
notice
given
on

Meanwhile, we order that the petitioners shall be paid salary for the month of April 1990 at the same rate at which they were paid the salary for the month of March 1990. List it for admission/orders on 24/5/90. Notice in this case shall be issued today. The copy of the order may be given to the ^{learned} counsel for the applicant as desired.

82

He

J.M.

AM

(2)

CA 159/90 L

AY

17.9.90

Plt. bp before Honble Bench
on 25.9.90

(6)

28.9.90

No setting back to 9.10.90

(7)

9.10.90

No setting back to 26.11.90

(8)

26.11.90

Hon. Mr Justice K. Nethi, VC.

Hon. Mr M. M. Singh, AM.

Counter has not

been filed despite opportunity.

List the case for separate

final hearing on 10-12-90.

Interim order shall continue
till then

OR

No CA filed

S. P. H.

23/11

M. H. L

AM

VC

गणेश विद्यापीठ
अधिवेशन
4-12-90

0.12.90

Case not reached. Adjourn
to 28.1.91. for hearing.

OR

No CA filed.

S. P. H. / Ex. P. H.

5/12/90

(9)

10.12.90

Honble Mr. Justice K. Nethi VC
Honble Mr. K. Chavva AM


On the request of learned Counsel
talu. applic. case is adjourned to
28.1.91 for hearing. Interim order
shall continue till then.

DM

VC

Run by
Mund

Dt. 28.6.91


J.M. 28.6.91

നിറം ഉൾപ്പെടെയുള്ളവ 1-10-9,
2

NID S. Thangappan 3-12-91
a

Mo 8712250 7.2.92
H

110 String add to 754.9

No setting Adj to $25.6.92$

Hon. Mr. Tushie - U.C. M'vavava - U.C.
Hon. Mr. K. obayya - A.M.

A. M.

V. c.

2 Notices issued on 3-7-92

OK
Notice has been
received of Regd-
No 2 - with
remark
AT-2 not a
OK notice of
6/1/19

O. R.
NO RA filed (APB)

24.0.

2
12/8

Central Administrative Tribunal
Lucknow Bench, Lucknow.

ORDER SHEET

O.A./T.A. No.

159/90 LY

Date / Office Report /

Order

Date

19.10.92

Hon'ble Mr. K. Obayya A.M.
Hon'ble Mr. S.N. Prasad J.M.

Heard argument of counsel
for the respondents. The learned
counsel for the respondents seeks
time to file documentary statements.
The same be filed by 21.10.92. In
case, the counsel for the respondents
do not file document, in that case
the case shall be decided on the
basis of material already on
record.

J.M.

A.M.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

...

O.A. NO 159 1990 (L)

I.A NO

Date of Decision

Shri. Anurag Kumar Petitioner.

Shri. Satish Kumar Advocate for the
Petitioner(s)

VERSUS

The Union of India Respondent.

Shri. Anil Kumar Advocate for the
Respondents

C O R A M

The Hon'ble Mr. Justice A. M. Khan

The Hon'ble Mr. S. N. Khanna J.M.

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ?
3. Whether to be circulated to other benches ?
4. Whether ~~the~~ their Lordships wish to see the fair copy of the Judgment ?

VICE-CHAIRMAN/MEMBER

A7

THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH -
LUCKNOW.

O.A. No. 159 of 1990.

Shubh Narayan & one another..... Applicants.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. K. Obayya - A.M.
Hon'ble Mr. S.N. Prasad - J. M.

(By Hon'ble Mr. K. Obayya - A.M.)

This case raises a short point. The applicants are employees with the Northern Railway. Initially their appointment was on the post of Khallasi and in due course they obtained the status of Temporary Railway Servant and put on C.P.C. scale of Rs. 196-232 as Khallasi. It would appear with effect from 15.7.86 they were put to work as Valve Man on Scale of Rs. 260-400 (950-1500) (Revised). However by the impugned order dated 11.4.90, they were put back to the scale of Rs. 196-232. Aggrieved by the above order, the applicants approached this Tribunal with a prayer that the order dated 11.4.90 be quashed and applicants be continued on the scale of Rs. 260-400 (950-1500) (Revised).

2. The application is resisted by the respondents, who have pointed out that the post of Valve Man is un-skilled post in the grade of Rs. 196-232. The Railway Board issued a letter on 13.11.82 by which the Artisan Staff was re-classified by which 50% of the existing strength of un-skilled categories was up-graded to Semi skilled grade of Rs. 210-290. In 1983 there was further development wherein by way of re-structuring, the Class IV posts, to the extent of 50% were up-graded from scales of Rs. 196-232 and Rs. 200-250. Not

1

satisfied with these scales, the Valve Men made a representation to the Railway Board which by letter dated 5.12.84 clarified that the Valvemen working in Grade 196-232 may be fitted either in terms of instructions contained in letter dated 13.12.82 or on the basis of re-structuring vide order dated 29.7.84. The matter was considered at Division level and the Divisional Superintendant Engineer Lucknow passed orders placing them on scale of Rs. 260-400 vide order dated 19.4.85. It is pointed out by the respondents that this scale was given by mistake and the entire matter was re-considered by D.R.M. who has taken into consideration the various circulars of the Railway Board and passed the orders cancelling the order dated 19.4.85 by which the scale of Rs. 260-400 was given to the Valveman. It would appear that number of petitions were moved by the Valvemen who were aggrieved by the grant of lower scale. Some of these petitions are still pending, and by virtue of stay orders against the lower pay Scale, the Valvemen are still continued on scale of Rs. 260-400. It is also pointed out that the Valvemen are not entitled for the grade of Rs. 260-400 and that the order dated 19.4.85 passed by the Divisional Superintendant Engineer, Lucknow, who was not competent authority on this issue, cannot be said to be a valid order as it is against the instructions of the Railway Board. It is also indicated that 50% of the posts of Valveman in Grade of Rs. 196-232 were up-graded to scale of Rs. 210-290 and as such the applicants who got the benefit of higher scale by wrong application of the instructions are not entitled for the scale.

We have heard the learned counsel for the parties. It would appear that the question of fixation of proper grade to Valveman came up before the Railway Board from time to time and also P.N.M. considered during the year 1984. From the record, it is noticed that the post of Valveman was fixed on scale of ~~Rxx~~ Rs. 210-290. In these circumstances it cannot be said that the applicants should be put back to the original scale of Rs. 196-232. Even if scale of Rs. 260-400 was not to be given to them as they were given that scale by mistake at the lower level without considering all aspect on the equation of the posts Vis-a-vis other Artisan posts in Semi-skilled and skilled grade etc. Having considered the facts of the case and also material on the record, the applicants undoubtedly were entitled for the scale higher than what was given to them i.e. 196-232, the scale above this is Rs. 210-290, the applicants are entitled for this scale. Accordingly we direct the respondents to fix the pay of the applicants in this scale (Rs. 210-290). As the amount already paid to them, was due to an error on the part of the Administration. The excess amount so paid in the higher scale Rs. 260-400 may not be recovered from the applicants. We also make it clear that if any junior of the applicants are already ⁱⁿ on scale of Rs. 260-400, in such a case the applicants should be continued on that scale only. The application is allowed in above terms. The parties to bear their own costs.

Member (J)
Dt: Oct. 21, 1992.
(DPS)

Member (A)

A10
10-5-90
V

Before The Central Administrative Tribunal, Allahabad.
Circuit Bench, Lucknow.

Subh Narayan & Anand Kumar V/s Union of India & ors.

I N D E X

S.No.	Particulars	Page No.
1.	Application before Tribunal	1 - 6
2.	Annexure No.1	7
3.	Annexure No.2	8
4.	Power	9

Lucknow:

Dated : 10-5-90

G.H. Naqvi
(G.H. NAQVI)

Advocate

Counsel for Petitioners.

*Filed today
10/5/90*

*Noted for
11/5/90*

(1) AM
10-5-90

Before The Central Administrative Tribunal,
Addl. Bench at Allahabad,
(Circuit Bench, Lucknow)

Claim Petition No. 159 of 1990. (2)

Subh Narayan & Anand Kumar... Applicants
versus

Union of India, Northern Railway, Lucknow.

Particulars of the Applicants:

- (1) Subh Narain aged about 40 years son Garib L.D
102 (c) R.D.S.O., Lucknow. and
- (ii) Anand Kumar, aged about 30 years son of Swami
Dayal, resident of 480/52 Mohalla Badshah
Daliganj P. S. Hasanganj, Lucknow

... PETITIONERS

They are employed as Valvemen under C.I.O.W
Northern Railway, Charbagh, Lucknow.

Particulars of Respondants:

- (i) The General Manager, Northern Railway, Baroda
House, New Delhi, for and on behalf of the
Union of India.
- (ii) C.I.O.W., N.Rly., Charbagh, Lucknow.
- (iii) Divisional Railway Manager, N.Rly.,
Hazratganj, Lucknow.

1. This application is against the order No.561 E/IDA
(Pc) dated 11-4-90 wherein the Divisional Manager
has directed the Assistant Engineer H.Q., N.Rly.
to stop the charging of pay of Valveren in the

आनंद कुमार

श्रीमन्मन्मन्
...2/-

Grade of Rs.260-400-950-1500 (RPS).

2. Jurisdiction of the Tribunal:

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

3. Limitation:

The applicants further declare that the application is within limitation prescribed in Section 21 of The Administrative Tribunal Act, 1985.

4. Facts of the Case:

That the facts are that the two applications mentioned in the petition are Valvemen posted under C.I.O.W Charbagh Railway Station, Northern Railway. The Divisional Manager by an order dated 19-4-85 allowed a scale as was approved by the Railway Board. The pay scale was Rs.260-400 before the Revised Pay Scale. The petitioners received pay on the 19th of each calendar month in each month. The petitioners were paid @ Rs.260-400 . It was learnt that on 27-4-85 another order was issued with the result that one Sri Ram Asrey Valveman filed a Writ Petition in the Hon'ble High Court, Lucknow Bench, Lucknow and in this Writ Petition No.2353 of 1985 the Hon'ble High Court ordered that the petitioner Valveman may be paid at the rate mentioned in the order dated 19-4-85 i.e @ Rs.260-400. On the basis of this order of the Hon'ble High Court all the Valvemen working

...3/- शुभनाश्रत

under the D.R.M., Hazratganj, N.Rly., Lucknow, were paid emoluments @ Rs.250-400, 950-1500 (RPS) The order dated 27-4-85 was not given effect. If the order passed in the same month was given effect to, the petitioner would have been adversely affected financially. The stay order passed by the Hon'ble High Court still holds good and since the Tribunal has been established, the Writ Petition No.2353 of 85 Ram Asrey Vs Union of India has also been transferred to this Hon'ble Tribunal. That Writ Petition is fixed for hearing for 2-7-90. Since there was some trouble created at the behest of the Law Office of the Northern Railway, Hazratganj, Lucknow, Ram Prasad and 40 others also filed case before this Hon'ble Tribunal. The case of these Valvemen is No.295/87. This case is also pending disposal before this Hon'ble Tribunal. A third case No.147/88 was filed by Madan Lal and others and the same is pending disposal before this Hon'ble Tribunal. The Hon'ble Tribunal in the case No.295/87 relating to 40 Valvemen of Northern Railway, this Hon'ble Tribunal passed an order of stay, copy of the same is Annexure No.1 to this petition. On account of these stay orders issued by the Hon'ble High Court and The Tribunal, the valvemen of Northern Railway were being paid revised pay @ Rs.950-1500, but the order issued by the Divisional Railway Manager on 11-4-90 again directs that the pay be reduced with IMMEDIATE effect. A copy of the order is Annexure-2 to this petition. It may be submitted that the

31-16 अगस्त 2004/-

अज्ञाना 21/201

the order Annexure No.2 has been passed without giving the petitioner an opportunity of being heard. This ex-parte order is bad in law in as much in that the same is against the principles of Natural justice. The order Annexure No.2 can not be given effect to, because the stay order passed by the Hon'ble High Court and the Hon'ble Tribunal still hold good.

5.

Relief sought:

In view of the facts mentioned in para 6 above, and as the stay order annexed as Annexure No.1, it is humbly prayed that the operation of the order (Annexure No.2) may be stayed, and the petitioner be allowed to continue to get his ^{their} salary at revised rates i.e Rs.900-1500, and *annexure 2 original be submitted and if may be quashed.*

6.

Interim Relief; if any:

Pending the final decision of the application the applicants ~~XXXXXX~~ seek that the order dated 11-4-90 (Annexure No.2) be not given effect to and the applicants pay may be ~~sustained~~ which they have been receiving, so far. The order (Annexure-1 may be perused and stay order may kindly be issued, ~~XXXXXXXXXX~~.

7.

DETAILS OF REMEDIES EXHAUSTED:

Since three petitions namely W.P No.2253/85; ^{Case} ~~W.P~~ No. 295/87 and ^{Case} ~~W.P~~ No.147/88 relating to Valvemen are pending before this Tribunal, the petitioners filed this petition, because the order to review the pay

निर्णय हुआ ००५/- शुभनारायण

scale (Annexure No.2) is bad in law and the C.I.O.W N.Rly, Charbagh Railway Station, Lucknow was approached on 7-5-90 but the C.I.O.W expressed his ~~XXXXXXXX~~ inability to do any thing in the matter and observed that the pay of the petitioner would be deducted as directed in Annexure No.2 . This petition is being filed after exhausting the remedies above.

8. MATTER NOT PENDING WITH ANY OTHER COURT:

The applicants further declare that the matter regarding which the application has been made is not pending before any court or any other authority or any other Bench of the Tribunal.

9. PARTICULARS OF POSTAL ORDER:

No. 2 4/4/90 Dated: 10-5-90
for Rs.50.00 only.

10. DETAILS OF INDEX:

- i. Application.
- ii. Annexures No.1 and 2.
- iii. Power.

11. LIST OF ENCLOSURES:

Application and two Annexures; Power and Postal Order.

IN VERIFICATION:

WE, Subh Narain, aged about 40 years son of Gharib
R/o L.D.A 102(C) R.D.S.O., Lucknow and Anand Kumar, aged

श्री १५०३ नं० ...६/- श्रीमन्तारुत

A174

Before the Central Administrative Tribunal
Circuit Bench Lucknow
Subh Prasad & others v. Union of India
Annexure I

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. NO.295 of 1987

Ram Prasad and 40 others	Applicant.
	Versus	
Union of India & Others	Respondents.

25.6.1987

Hon'ble Justice Sri S. Zaheer Hasan, V.C.

Hon'ble Mr. B.C. Mathur, V.C. (A)

Admit.

Issue notice to the respondents to file reply by
3.8.1987.

Rejoinder be filed by 17.8.1987.

As regards the prayer for interim relief, it has been
contended that the Hon'ble High Court vide its order dated
31.7.1985 permitted certain Valvemen to continue to receive
salary in the scale of Rs.260 - 400, and a similar order
may be passed in this case.

Issue notice regarding prayer for interim relief
fixing 9.7.1987.

In the meantime the petitioners will continue to receive
the salary which they are getting at present.

Sd/-
V.C. (J)

Sd/-
V.C. (A)

checked
SHP
30/11/90

// True Copy //

rrm/

T.C. Luv
07/5/90

AKD
20/11/90
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

शुभ नारायण
आनंद कुमार

before the Central Administrative Tribunal
Circuit Bench Lucknow

Sukh Narain & others v Union of India & others
Annexure 2
A18

North Eastern Railway

Dist Rly Manager's office,
Lucknow Dated 19-11-90

No: 561E/II DA(Pc)

Asstt. Engineer (HQ)
N. Rly. Lucknow.

Sub:- Immediate stoppage of charging the
pay of Valvemen in gr 260-400/950-1500
(RPs)

Ref:- your letter No: 4/E/88-89/TT dated
22-2-90

It has come to notice of this office, through
your letter referred to above, that the pay of Valvemen is being
charged by office in grade Rs. 260-400/Rs. 950-1500 (RPs)
without any authority beyond 1-8-85 till date. This is a
very serious irregularity and you are, therefore, directed
hereby to ^{kindly} stop immediately charging the pay of Valvemen
in gr Rs. 260-400/Rs. 950-1500 (RPs).

Clear instructions in this regard are already
available with you that 50% posts of Valvemen are to be
given in grade of Rs. 210-290 (Rs) and the remaining 50%
posts will carry the grade of Rs. 196-232 (Rs), which has
later been modified as 70% of Valvemen to be given the seniorised
grade of Rs. 210-290 (Rs) through G.O. (P) No 220E/105-X1
(E II B I) dt 12-5-88 circulated vide this office letter of even
number dated 21-6-88.

Please ensure immediate compliance by stopping
drawal of pay of Valvemen in gr Rs. 260-400/Rs. 950-1500 (RPs)
and submit to this office your comments on the
circumstances and authority under which pay of Valvemen
has been charged in gr Rs. 260-400/Rs. 950-1500 (RPs)
beyond the specific date 1-8-85 to date.

This may be treated as most urgent

[Signature]
Dist Rly Manager
Lucknow

[Signature] 1 of 5/90

No 4/E/89-90/TT dt. 12/4/90

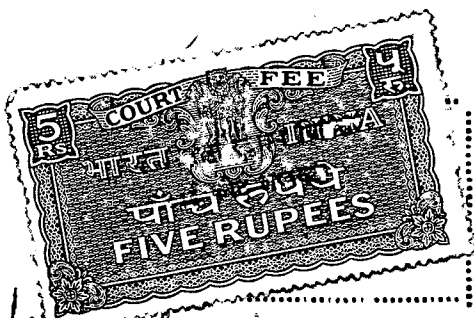
Copy forwarded to CIOW/CB, Loco, AMV, CFW, IOW/HBH
& Sr DAO for immediate stoppage of charging the pay
of all Valvemen in grade Rs. 260-400/950-1500 (RPs)

निर्देश के लिए

AEN/HB/LKO

प्रतिवादी [रेस्पाडेन्ट]

Before the Central Administration Tribunal
 श्री का वकीलतन्त्रामा
 Circuit Bench Lucknow



बादी (अपीलान्ट)

Subharam & another

Union of India बनमि प्रतिवादो (रेस्पाडेंट)

सन्

पेशी की ता०

११ ५१०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

G. H. Nagler

R. no- 744/42

व

A.S. Singh
P.O. No. 74089

बकील
महोदय
एडवोकेट

एडवोकेट

नाम अदालत

मुकदमा नं०.

नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरबी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पंरबी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

साक्षी (गवाह) साक्षी (गवाह)

दिनांक १०.५.१० महीना — — — — — सन १९ ई०

स्वीकृत

A20

In the Central Administrative Tribunal ,
Lucknow Bench, Lucknow.

Civil Misc. Application No. of 1991(L)

In Re:

Registration (O.A.) No.1598 of 1990 (L)

Subh Narain and another Applicants

Versus

General Manager, Northern Railway,
Lucknow. and others Respondents


Application For Condonation of Delay in filing the
Counter Reply

That the delay in filing counter reply is
not intentional or deliberate but due to the
administrative and bonafide reasons, which deserves
to be condoned.

P R A Y E R

Wherefore, it is most respectfully prayed
that in the interest of justice, delay in filing the
counter reply may kindly be condoned and counter
reply may be taken on record.

Lucknow:Dated:
...7/5/... 1991


(ANIL SRIVASTAVA)
Advocate
Counsel for the Respondents

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

O.A. No. 159 of 1990 (L)

Subh Narayan and another Applicants
Versus
General Manager, Northern Railway,
and others Respondents

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

I, Shriv Pujan Prasad working as
Asst Personnel officer in the office of Divisional
Railway Manager, Northern Railway, Hazratganj,
Lucknow do hereby solemnly affirm and state as
under:-

1. That the official abovenamed is working under the respondents and is fully conversant with the facts and circumstances of the applicant's case and has been authorised by the respondents to file this Counter reply on their behalf.
2. That the contents of paras 1, 2 and 3 of the original application do not call for comments.



Contd.....2

प्रमाणित अधिकारी
पुनर् प्रमाणित

3. That in reply to the contents of para 4 of the original application, it is stated that since the applicant has not impleaded Union of India as a party hence the present application can not be entertained by the Hon'ble Tribunal. Otherwise also the applicant has not exhausted his departmental remedy i.e. the representation to the General Manager, Northern Railway before approaching this Hon'ble Tribunal hence this application is not maintainable.
4. That the contents of para 5 of the original application do not call for reply.
5. That the contents of para 6 of the original application are not admitted as stated. It is denied that the applicants were posted as Valve men. The applicant No. 1 namely Subh Narayan was initially recruited as daily rated Khallasi on 4.4.76 and after completion of 120 days of continuous service he attained the ^{status} service of temporary railway servant w.e.f. 19.8.76 as Khallasi in scale of Rs. 196-232 (RS). The applicant No. 2 namely Anand Kumar was initially recruited ^{as} daily rated Khallasi on 28.12.76 and after completion of 120 days of continuous service he also attained the status of temporary ~~of~~ Railway servant in C.P.C. Scale of Rs. 196-232 (RS)

Elbrad
www.cafm.org

Contd....3

w.e.f. 12.5.77 as Khallasi. Both the applicants were put to work as Valve men on ELA basis w.e.f. 15.7.86 in scale of Rs. 260-400(RS)/Rs. 950-1500 (RPS). Here E.L.A. means Extra Labour ^{arrangement} basis i.e. which is sanctioned from time to time. It is also important to state here that though the applicants were put to as Valve men but actually they were never screened for the said post.

6. That the applicants are working under the answering respondents as Valvemen in open Line Establishment. The said post of Valvemen is an unskilled post having grade Rs. 196-232 (RS).
7. That the Railway Board vide their letter No. E(F&A) I.82/J.C./1 dated 13.11.82 issued a reclassification of Artisan staff in the Railways which relief were granted to semi-skilled and unskilled staff. By this reclassification 50% of the existing strength of unskilled categories in the open line establishment were upgraded and allowed the semi skilled grade Rs. 210-290(RS).
8. That thereafter, the Railway Board vide letter No. PC.III/80/UPG/19 dated 29.7.83, which was circulated in the office of the answering respondents under letter no. 561-E/II D/A (re-structuring) dated 8/9.8.83

Elhvarad

in which certain cadre of group C & D were restructured by this miscellaneous class IV posts in various departments were restructured i.e. 50% in grade Rs. 196-232(RS) and 50% in grade Rs. 200-250(RS).

9. That thereafter the persons working as Valvemen raised the dispute with respect to the applicability of the grades and the entire matter was again referred to the Railway Board by the answering respondents, on which the Railway Board vide their letter dated 5.12.84 clarified and directed that the case of the Valve Operator/Valveman working in grade Rs. 196-232 may be fitted either in terms of instructions contained in the letter dated 13.11.82 or restructuring orders vide item no. 14 of the annexure to Board's letter dated 29.7.84.

10. That the Valvemen were getting the scale of Rs. 196-232(RS) prior to 19.4.83. The representation was made to Divisional Superintending Engineer/Co-ordinator Lucknow for treating the Valvemen ~~for treating the Valvemen as per~~ with SPAs of the Electrical department. The said matter was raised through Union and the Divisional Superintending Engineer/Co-ordinator, Lucknow under wrong notion vide order dated 19.4.85 placed the Valvemen in grade Rs. 260-400 (RS) even without approval by the competent authority.

Elfrance

Contd.....5

10. That in this regard, it is revelent to point out that the said orders of the Divisional Superintending Engineer/Co-ordinator, Lucknow had no approval of the competent authority and the same was purely a local decision. Besides this the Divisional Superintending Engineer/Co-ordinator, Lucknow is not at all competent to issue such orders *the same is against the existing policy of and the Railway Board.*
11. That immediately after the issuance of the said orders, the same was implemented and Valvemen were granted grade Rs. 260-400(RS).
12. That thereafter, the said error was detected at administrative level and entire matter was ~~examined~~ considered by Divisional Rail Manager, Northern Railway, Lucknow who taking into account the Railway Board's circular of reclassification, restructuring and subsequent clarification issued yet another order superceding the order dated 19.4.85.
13. That in this regard it is further submitted that after the issuance of the order dated 27.4.85, about 22 petitioners filed writ petitions before the Lucknow Bench of Allahabad High Court in which an interim order was granted

Allahabad
प्रमुख - निम्न अधिकारी
आर रेवे. ए. ए.

Cohtd.....6

on 31.7.85 by which it was directed that in the meantime the petitioners shall be paid salary in Scale of Rs. 260-400/RS. The said writ petition is still pending and its No. is 2353 of 1985; Ram Asrey and others Vs. Union of India and others.

14. That after the issuance of the said orders, the petitioners in writ petition No.2353 of 1985; and 295 of 1987; as well as the present petitioners are being paid salary in scale of Rs. 260-400(RS).
15. That it is also submitted that the allegations of the petitioners that opposite parties are going to implement the order dated 11.4.90 is entirely misconceived, false in the instant case and no action has been taken till the date of order dated 11.4.90.
16. That it is further submitted, as per service rules the petitioners are not legally entitled for the grade of Rs. 260-400/RS and as such order dated 27.4.85 and 11.4.90 are perfectly valid, legal and according to the service Rules. It is further submitted that the petitioners can not claim benefit from the order dated 19.4.85 issued by Divisional Superintendent Engineer/Coordinator, Lucknow, who was neither competent to issue such orders nor the same

R. Prasad

was in confirmity ^{with} ~~to~~ the instructions issued by the Railway Board. Also in this behalf any allegation to the contrary are not passed by Divisional Superintendent Engineer/Coordinator Lucknow under order dated 17.5.85. A copy of the said order is enclosed herewith as Annexure No. C-1 to this reply. It is submitted that by the said order the Divisional Railway Manager, Northern Railway confirmed that the Valveman in grade Rs. 196-232 with 50% upgradation in the scale Rs. 210-190/RS.

17. That in this regard it is submitted that against the order dated 27.4.85 and 11.4.90 the petitioners had a remedy by filing the representation before the next heigher authorities i.e. the General Manager, Northern Railway since the remedy has not been availed~~ed~~ by the instant petitioners, this application is not maintainable and is liable to be dismissed.
18. That in reply to the contents of paras 6 and 7 of the original application under the head of relief sought and interim relief, it is stated that the present application has got no merit, and ^{is} baseless, misconceived and devoid of merits as such liable to be dismissed against the applicants and in favour of the answering respondents with costs.

Elbrasad

Contd.....8

19. That in reply to the contents of para 8 of the original application, it is submitted that since the applicants have not availed the departmental remedy ^{by} filing the representation to authorities, they have not met the requirement of exhausting remedy available to them under the service rules as such present application is liable to be dismissed on sole ground that they have not availed departmental remedies available to them.

20. That the contents of para 9 of the original application need no comments.

Lucknow.

Dated: 7-12-90

Elbrasad

VERIFICATION

तत्त्व
आर. सी. ए. ए.

I, the official abovenamed do hereby verify that the contents of para 1 of this reply is true to my personal knowledge and those of paras 2 to 20 of this ~~application~~ reply are believed by me to be true on the basis of records and legal advice.

Lucknow.

Dated: 7-12-90

Elbrasad

तत्त्व
आर. सी. ए. ए.