

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 033.

Dated: **17 MAR 1995**

APPLICATION NO. 651 of 1994.

APPLICANTS: **Sri.G.Neelakanta Rao, Bangalore-46**

V/S.

RESPONDENTS: **The Chief Personnel Officer(Engineering),
Central Railway, Bombay VT-1 and two others.,**

To

1. **Sri.M.Narayanaswamy, Advocate,
No.844, Upstairs, Fifth Block,
17th-G-Main, Rajajinagar,
Bangalore-560 010.**
2. **Sri.A.N.Venugopala Gowda, Advocate,
No.8/2, Upstairs, R.V.Road,
Bangalore-560 004.**

*Received Copy on
17/3/95
Chokk E. Avelu
(SI. NO. 1)*

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

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Please find enclosed herewith a copy of the Order/
Stay Order/Interim Order, passed by this Tribunal in the above
mentioned application(s) on 13-03-1995.

*Issued on
17/03/95*

o/c

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[Signature]
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NO. 651/1994

DATED THIS THE THIRTEENTH DAY OF MARCH, 1995

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

MR. T.V. RAMANAN, MEMBER (A)

Mr. G. Neelakanta Rao
S/o. G. Puttu Rao (late)
Executive Engineer (Con)
Mysore-Bangalore Conversion
Project, Southern Railway
No. 18, Millers Road
Bangalore-560 046. Applicant

(By Advocate Mr. M. Narayanaswamy)

Vs.

1. The Chief Personnel Officer
(Engineering)
Central Railway, Bombay VT-400 001
2. The Chief Personnel Officer
(Engineering) Southern Railway
Park Town, Madras-600 003.
3. The General Manager (Personnel)
Wheel & Axle Plant,
Yelahanka, Bangalore-560 064. ... Respondents

(By Mr. A.N. Venugopal, Standing Counsel
for the Railways)

O R D E R

Mr. T.V. Ramanan, Member (A)

In this application made under
Section 19 of the Administrative Tribunals Act, 1985,
the applicant has sought the following reliefs:-

- (a) Quash by the issue of an appropriate order or direction as the case may be, the contents of the letter No. HPB/226/RE/GNR dated 14.1.1994 of the Central Railway (Annexure-A5) with a further direction directing the respondents to consider the case of the applicant for granting one



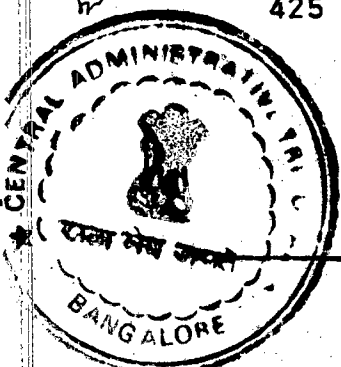
additional increment (notional increment) with effect from 2.1.1973 as per the decision taken vide letter dated 8.11.1978 of the Railway Board with a further direction directing respondents to grant all consequential benefits such as refixation of pay at Rs 580/- with effect from 2.1.1973 in the revised scale of pay of Rs 550-750 and to regulate further fixation of pay accordingly from time to time including fixations of pay in the promotional cadres with effect from the respective dates such refixations of pay is necessary, with all consequential benefits including financial benefits due consequent on such fixation and refixations of pay with interest to be determined by this Hon'ble Tribunal at the time of final hearing of the above application, in the interest of justice and equity;

- b) Pass such other orders just and expedient in the circumstances of the case, including the award of exemplary costs.

2. The applicant had reached the maximum pay of Rs 280/- in the scale of pay of Rs 205-280, attached to the post of Assistant Inspector of Works, on 24.11.1966 and ^{as} such in terms of the Railway Board's letter No.NE(P&A)I-70/PP/6 dated 18.3.1970 read with the circular letter of even no. dated 12.6.1970 he was allowed a personal pay of Rs 8/- as stagnation increment with effect from 1.3.1970. He was promoted as Inspector of Works with effect from 21.11.1970 in the scale of pay of Rs 250-380 and his pay was fixed at Rs 290/- (Rs 288/- + Rs 2/-). By its letter no.PC-III/78/ROP-1/18 dated 8.11.1978 addressed to all concerned, the Railway Board decided that those who had been granted stagnation increment in

pursuance of the circular letters dated 18.3.1970 and 12.6.1970 referred to supra and who were promoted between 1.3.1970 and 31.12.1972 would be granted an additional increment in the revised scale of pay with effect from 2.1.1973 and that after the grant of such additional increment with effect from the date aforesaid in the revised scale of pay, the employees concerned shall be eligible for grant of future increments on completion of service or full incremental period counting for increment under Rule 2022(FR-26)R II from 2.1.1973 till the maximum of the scale was reached and that the grant of this additional increment with effect from 2.1.1973 would be notional and no arrears would be admissible for the period prior to 6.9.1978. According to the applicant he became entitled to an additional increment with effect from 2.1.1973 and further became entitled for regulation of fixation of his pay with all consequential benefits. He has claimed that the benefits to which he became entitled as per the letter of the Railway Board dated 8.11.1978 and the consequential benefits flowing therefrom would be as follows:-

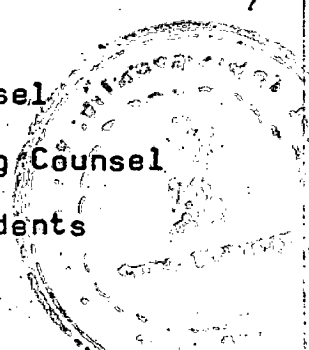
Revised Scale (Rs)	Existing Pay (Rs)	Pay now to be fixed w.e.f. (Rs)
425 - 700	545/- 1.1.1973	545/- 1.1.1973
	560/- 2.1.1973	560/- 2.1.1973
	<u>580/- 2.1.1974</u>	<u>580/- 2.1.1973</u>
	600/- 2.1.1975	(NOTIONAL INCRE- MENT)
		600/- 2.1.1974



The applicant had made representations to the authorities concerned for giving him benefits claimed by him as stated supra. However, the Railway administration made a revised pay fixation fixing his pay at Rs 560/- by allowing him one notional increment from 2.1.1973 in the scale of Rs 425-700 (RS) in terms of the Railway Board's letter dated 8.11.1978 as against the applicant's claim for one more increment taking his pay to Rs 580/- with effect from 2.1.1973. The applicant kept on representing and finally his request for grant of 2 increments with effect from 2.1.1973 was rejected. Aggrieved by this, the applicant filed an application before the Tribunal (O.A. 482/1992). The Tribunal condoning the delay in filing of that application made an order dated 23.11.1993 directing the respondents (Railways) therein to consider the applicant's claim for grant of additional increments in terms of the Railway Board's letter dated 8.11.1978 and further directed implementation of its direction within a period of 3 months from the date of receipt of a copy of its order. In compliance with the direction given by this Tribunal, Railway Board, respondent no.1 therein conveyed the rejection of the applicant's claim by a letter dated 14.1.1994 (Annexure-A5), which is under challenge herein.

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3. We have heard the learned counsel for the applicant and the learned Standing Counsel for the Railways appearing for the respondents and perused the record of the case.



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4. The undisputed facts are that the applicant was stagnating at the maximum of the scale of Rs 205-280 and that in accordance with the circular letters dated 18.3.1970 and 12.6.1970 was given the benefit of a stagnation increment with effect from 1.3.1970. The increment so given was reckoned for the purpose of pay fixation when he was promoted to the grade carrying the pay scale of Rs 250-380 with effect from 25-11-1970 and his pay was fixed at Rs 290/- (Rs 288/- + Rs 2/-). Thereafter the applicant got the benefit of the revised scale of pay of Rs 425-700 introduced consequent upon acceptance of the recommendation of the Third Central Pay Commission and his pay was rightly fixed at Rs 545/- as on 1.1.1973. Later, the Railway Board issued a letter dated 8.11.1978 referred to supra which reads as follows:-

"Sub:- Regulation of pay of employees who were in receipt of adhoc increment for stagnation at the maximum of their grade and who were promoted during the period from 1-3-1970 to 31-12-1972.

Attention is invited to Ministry of Railways letter No.E(P&A)I-70/PP/6 dated 18.3.1970 and 12.6.1970 granting with effect from 1.3.1970, personal pay equivalent to the rate of last increment drawn by them Rs 30/- in the case of those in the scales of Rs 450-575 (AS) or Rs 435-575(AS), to class III and class IV. Railway employees who had been stagnating at the maximum of their pay scales for two years or more.

2. The question of above adhoc increment being counted for fixation of pay in respect of persons promoted between 1.3.1970 and 31.12.1972 has been under consideration in the National Council JCM. Pursuant to the agreed conclusions arrived at in the National Council, the President

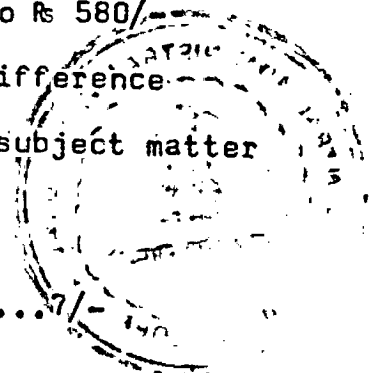


is pleased to decide that employees who were in receipt of adhoc increment granted under the Ministry of Railways letters No.E(P&A)I-70/PP/6 dated 18.3.1970 and 12.6.1970 may be granted an additional increment in the revised scale of pay on the 2nd January, 1973. After the grant of this additional increment with effect from 2.1.1973 in the revised scale of pay, the employees concerned shall be eligible for grant of future increments on completion of service for full incremental period counting for increment under Rule 2022(FR-26)RII from 2.1.1973, till the maximum of the scale is reached. The grant of this additional increment with effect from 2.1.1973 will be notional and no arrears will be admissible for the period prior to 6.9.1978. "

Much later, the claim of the applicant for pay fixation in terms of aforesaid letter was considered by the Railway administration and he was given the benefit of one additional increment with effect from 2.1.1973 which resulted in his pay going upto Rs 560/- with effect from 2.1.1973 in the scale of Rs 425-700. Finding that some others in the Southern Railway got the benefit of 2 increments as on 2.1.1973 in the scale of Rs 425-700, the applicant made a claim for similar fixation in his case also, that is, he should get an additional increment of Rs 20/- carrying his pay to Rs 580/- again with effect from 2.1.1973 whereas according to the revised pay fixation done by the Railway administration he would be entitled to this additional increment carrying his pay to Rs 580/- only with effect from 2.1.1974. This difference in pay fixation as stated above is the subject matter of this application.

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.....7/-



5. While learned counsel for the applicant argued putting forth the claim made by the applicant as aforesaid, learned Standing Counsel for the respondents contended that the pay fixation done by the Southern Railways in regard to certain persons employed by it, referred to by the applicant in his application, had no relevance to the case of the applicant as it related to the employees of another Railway and not the Central Railways to which the applicant belongs and further, the applicant having failed to mention the pay of the Southern Railway employee concerned as on 1.1.1973 it could ~~be~~ but be surmised that those employees were stagnating at the maximum of the 'existing pay scale' for more than a year as on 1.1.1973 and as such the circular letter of the Railway Board No. PC-III-73/ROP-1/9 dated 28.1.1974 would apply in such cases thereby giving them the benefit of one more increment with effect from 2nd January, 1973. In this context it will be worth while to reproduce the aforesaid letter.

" Sub: Railway Services (Revised Pay) Rules, 1973 - Grant of next increment in the revised scales to persons drawing pay at the maximum of the existing scales of pay.

Under rule 8 of the Railway Services (Revised Pay) Rules, 1973, the next increment of a Railway servant whose pay has been fixed in the revised scale under rule 7(1) of those rules shall be granted, except in cases falling under the second proviso to rule 8, on the date he would have drawn his increment had he continued in the existing scale. A question has been raised as to



What should be the date of next increment in the revised scale in the case of a Railway servant who was drawing pay at the maximum stage of the existing scale on the 1st January, 1973, as such a Railway servant would not have drawn any further increment in the existing scale. The President is pleased to decide that in such cases where the Railway servant had reached the maximum of the existing scale subsequent to the 1st January, 1972, the next increment in the revised scale shall be granted on the completion of service for the full incremental period, counting for increment under Rule 2022(FR.26)-RII from the date on which he reached the maximum of the existing scale, without prejudice to any benefit that may be admissible by the operation of the second proviso to rule 8 of the Railway Services (Revised Pay), Rules 1973. In the case of persons who had been at the maximum of the existing scale for more than a year as on 1.1.1973, the next increment will be allowed on the 2nd January, 1973.

2. Hindi version of this letter will issue separately.

3. Please acknowledge receipt.

sd/-
(G.D. Sud)
Deputy Director, Pay Commission
Railway Board

He further argued that the letter dated 8.11.1978 provided for the grant of an additional increment as a notional increment with effect from 2.1.1973 only in respect of those who had been given the benefit of the stagnation increment in accordance with the circular letters of the Railway Board dated 18.3.1970 and 12.6.1970 and who had been promoted between 1.3.1970 and 31.12.1972, did not provide for any extra or additional increment of the nature sought by the applicant.

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increment contemplated in the circular letter dated 28.1.1974. The applicant was entitled only to the one notional increment which has already been extended to him with effect from 2.1.1973 in terms of the Railway Board's letter dated 8.11.1978. The revised fixation done by the Railway administration by which his pay was raised by one increment to Rs 560/- as on 2.1.1973 appears to be correct.

7. In the result, this application fails and is dismissed.
No costs.

Sd/-

(T.V. RAMANAN)
MEMBER (A)

Sd/-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN



TRUE COPY

[Signature]
17/3/95
Section Officer

Central Administrative Tribunal
Bangalore Bench
Bangalore

Since the applicant had been promoted between 1.3.1970 and 31.12.1972, i.e., on 26.11.1970, in terms of the Railway Board letter dated 8.11.1978 he was entitled to only one increment as notional increment with effect from 2.1.1973 and that was given to him by raising his pay, which stood fixed at Rs 545/- as on 1.1.1973, by one increment to Rs 560/- as on 2.1.1973. He further averred that had the applicant been stagnating in the existing scale, that is, the pre-revised scale for one year as on 1.1.1973, he would have been given the benefit of one more increment with effect from 2.1.1973 in accordance with the Railway Board letter dated 28.1.1974 in addition to the additional notional increment allowed by the letter dated 8.11.1978. However, that was not the case with the applicant because the applicant was not at all stagnating in the existing scale of Rs 250-380 for a period of one year as on 1.1.1973. In fact, the stagnation increment earned by him with effect from 1.3.1970 in the scale of Rs 205-280 had been taken into account when he was promoted as Inspector of Works in the scale of Rs 250-380 and his pay was fixed at Rs 290/-. Learned Standing Counsel therefore, rebutted the claim of the applicant for an additional increment in the form of stagnation increment or by any other nomenclature over and above the notional increment allowed to him with effect from 2.1.1973 in pursuance of the Railway Board's letter dated 8.11.1978.

6. We are inclined to agree with the contention of the learned Standing Counsel for the



respondents. A careful perusal of the Railway Board's letter dated 8.11.1978 shows that it provides for an additional increment only in regard to those who had been given an adhoc increment for stagnation at the maximum of the grade in terms of the Railway Board Circular letters dated 18.3.1970 and 12.6.1970 and who were promoted between 1.3.1970 and 31.12.1972. Certainly, an employee of the Railways who was not stagnating at the maximum of the existing scale, that is, the pay scale which existed prior to revision of the pay scales on 1.1.1973, which is the case with the applicant, cannot expect to get the increment envisaged in the circular letter of the Railway Board dated 28.1.1974. The applicant was, therefore, rightly given the benefit of one additional increment with effect from 2.1.1973 because he had been promoted between 1.3.1970 and 31.12.1972. If some employees in the Southern Railway had been given the benefit of 2 increments with effect from 2nd January, 1973, as averred by the applicant, they must have been covered by the circular letter of 28.1.1974 as also by the letter of the Railway Board dated 8.11.1978. In any case, we do not wish to speculate as to how they came to be given two increments on 2.1.1973 in the absence of all particulars about their pay prior to their being brought on the Revised Pay Scale as on 1.1.1973 and other relevant information. The applicant is not entitled to the stagnation