

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 17.11.2000

OA 248/96

S.P.Tiwari s/o Shri Prabhu Dayal Tiwari r/o A.D.-5 Devi
Marg, Bani Park, Jaipur.

... Applicant

v/s

1. Union of India through General Manager, W/Rly,
Churchgate, Mumbai.
2. Dvl.Rly.Manaver, W/Rly, Jaipur Dn., Jaipur.
3. FA & CAO, W/Rly, Churchgate, Mumbai.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Shiv Kumar

For the Respondents

... Mr.Hemant Gupta, proxy
counsel for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative
Tribunals Act, 1985, applicant S.P.Tiwari has prayed for
a direction to the respondents to allow add on element
of 55 % of running allowance in the basic pay for the
purpose of calculation of pensionary benefits and revise
the pensionary benefits accordingly with all consequential

(Signature)

benefits. In the alternative it has been prayed that the respondents be directed to allow an add on element of 30% of basic pay drawn by the applicant for three months on the post of Junior Fuel Inspector during his last 10 months of service and calculate the pensionary benefits accordingly

2. Applicant's case is that he was initially appointed as Apprentice Fireman on 9.3.57 with the respondent department and after earning various promotions he was last promoted as Driver 'A' Special in the year 1985. He was posted as Junior Fuel Inspector on 2.9.86, a stationery post. On his request, he was again posted as Driver 'A' Special vide order dated 21.12.92 (Ann.A/4). The applicant retired from service on superannuation on 31.7.93.

Applicant's contention is that he had worked on the post of Driver only for seven months during last 10 months of his service and he has been granted add on element of 55% of his basic pay for the period of 7 months only for the purpose of calculation of his retiral benefits. He has, therefore, prayed that he should be allowed add on element of 55% for full ten months or in the alternative

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an add on element of 30% for 3 months from the period he worked on the post of Junior Fuel Inspector.

3. In the counter it has been stated by the respondents that the applicant was posted as Junior Fuel Inspector on his own request. On his posting as Junior Fuel Inspector on 2.9.86 he was drawing the pay in the scale of Rs.2000-3200 and was fixed at Rs.2540/-. Since he had come from running to non-running cadre, he was given the benefit of 30% running allowance in fixation of his pay as Junior Fuel Inspector and by adding this element his pay came to be fixed at Rs.3302/- but since the maximum of the scale was Rs.3200/-. the basic pay was fixed only at Rs.3200/- and he was subsequently granted stagnation increment as per rules. It has also been clarified by the respondents that for the service from 1.1.93 to 31.7.93, the applicant worked as Driver 'A' Special, an add on element of 55% of his basic pay was allowed for calculation of his retiral benefits. It has, therefore, been averred by the respondents that there is no mistake in calculating the retiral benefits of the

Comptroller

applicant and the application is devoid of any merit and liable to be dismissed.

4. Heard the learned counsel for the parties and perused the records of the case carefully.

5. It is not disputed that the applicant had joined the cadre of Junior Fuel Inspector on his own request and his pay as Junior Fuel Inspector has been fixed as per Para 913 of Indian Railway Establishment Manual, Volume-I. We consider it appropriate to extract below para-913 of the IREM :-

"Officiating allowance (ii) (a) :

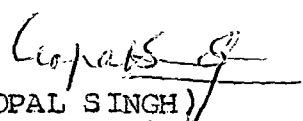
When running staff are put to officiate in a stationary post for more than 30 days, ~~there~~ their pay will be fixed on the basis of their pay in the lower post plus 30% thereof representing the pay element of the running allowance."

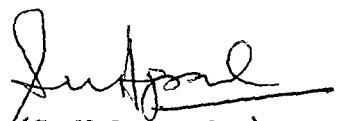
Since the applicant had come from the post of Driver (a running cadre) to the post of Junior Fuel Inspector (non-running cadre), his pay was accordingly fixed under Para-913. Since the element of running allowance of 30% had already been taken into account while fixing the pay

Concurrence

of the applicant as Junior Fuel Inspector, no further add on benefit can be allowed to the applicant on the pay drawn by the applicant as Junior Fuel Inspector for the purpose of calculation of retiral benefits. In the light of the above discussion, we do not find any merit in this application and the same deserves to be dismissed.

6. The OA is accordingly dismissed with no order as to costs.


(GOPAL SINGH)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)