

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.513/99

Date of order: 17/4/2002

Pratap Singh Panwar, S/o late Shri Madan Singh, R/o 352, Jaswant Nagar, Khatipura, Jaipur presently working as Sr.T.C, Jaipur.

...Applicant.

Vs.

1. Union of India, through Secretary, Mini.of Railways, Govt of India, New Delhi.
2. General Manager, Western Rly, Churchgate, Mumbai.
3. Dy.Director Establishment (Sports) Railway Board, New Delhi.

...Respondents.

Mr.Vikrant Gupta : Counsel for applicant

Mr.R.G.Gupta : Counsel for respondents.

CORAM:

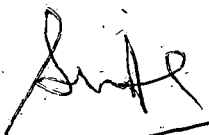
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.H.O.Gupta, Administrative Member.

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

In this O.A filed under Sec.19 of the ATs Act, 1985 the applicant makes a prayer to quash and set aside the communication dated 5.2.99 and order dated 13.10.97 and to direct the respondents to grant the pay scale Rs.1400-2300 (Rs.5000-8000) alongwith arrears and interest thereon @ 18% per annum.

2. In brief, the case of the applicant is that vide order dated 17.5.95, the Board have approved the change of category of the applicant from Guard to T.C as a special case with the stipulation that his pay will be fixed in the manner that there is no financial loss in terms of his basic pay plus running allowances. But in spite of this order, the



applicant was given the grade of Rs.1200-2040 which is applicable for Goods Guard and not for T.C. The applicant submitted representation which was decided arbitrarily and communicated to the applicant vide order 5.2.99, upholding the earlier order dated 13.10.97 on the ground that the applicant has not been promoted from Goods Guard to T.C but only his category has been changed. Feeling aggrieved by this communication dated 5.2.99 and 13.10.97, the applicant filed this O.A for the relief as above.

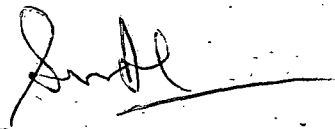
3. Reply was filed. In the reply, the respondents admitted the fact that change of category of the applicant from Goods Guard to T.C in pursuance of order dated 17.5.95 and stated that vide order dated 17.5.95, the pay of the applicant was fixed correctly at Rs.1680/- in the pay scale Rs.1200-2040. It is stated that the claim of the applicant for fixation in the pay scale Rs.1400-2300 amounts promotion from the post of T.C to HTC. Thus, the applicant has no case.

4. Rejoinder has also been filed which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Admittedly, vide order dated 17.5.95, the category of the applicant was changed from Goods Guard to T.C, in the intermediate grade of a special case (Sports account) and in the order itself the Railway Board has stated that the pay of the applicant as T.C shall be fixed in a manner that no financial loss to the applicant should be given. It is also an admitted fact that the applicant made representation through the Union but the same was replied that the fixation was done correctly as explained vide letter dated 13.10.97.

It appears that the respondents' department did not take



notice of Railway Board's letter dated 15.6.79 addressed to all GMs, which is reproduced as under:

"Complaints have been received from time to time from running staff that when they have to compete for promotion with non-running categories they are often not selected and placed on the panels or get very low position on the panels because of their scale of pay being the lowest among the other eligible categories. The Railway Board have after careful consideration decided that this disadvantage should be removed by adding to the pay scales of the running staff roughly 30% of the same (in lieu of running allowance) for the purpose of comparison with non-running categories for promotion selections. The occasion for comparison normally arises in the following grades, where equivalence of grade should be taken as below:

Actual scale      Scale of stationary category to  
which to be treated as equivalent  
after adding 30%

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Guard A Spl.	Rs.425-640)	Rs.550-750
Guard A	Rs.425-600)	
Guard B	Rs.330-560	Rs.455-700
Guard C	Rs.330-530	Rs.425-640
Drivers A Spl	Rs.550-750)	Rs.700-900
Driver A	Rs.550-700)	
Drivers B	Rs.425-640	Rs.550-750
Drivers C	Rs.330-560	Rs.455-700

If this circular is given effect thereto, the applicant become entitled to fix his pay in the scale

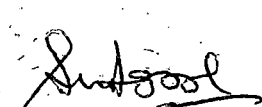
*Sunder*

Rs.1400-2300 (Rs.5000-8000) protecting his pay in pursuance of order dated 17.5.95. Therefore, we are of the opinion that denial by the respondents fixing the applicant in the scale Rs.1400-2300, after protection of his pay, in pursuance of order dated 17.5.95, is not only arbitrary but also illegal and the applicant is entitled to his pay fixed in the scale Rs.1400-2300 after protection of his pay in pursuance of order dated 17.5.95.

7. We, therefore, allow this O.A and quash and set aside the communication dated 5.2.99 and order dated 13.10.97 and direct the respondents to fix the pay of the applicant in the scale Rs.1400-2300 (Rs.5000-8000) after protection his pay in pursuance of the order dated 17.5.95 and pay him arrears within 3 months from the date of receipt of a copy of this order. No order as to costs.

  
(H.O.Gupta)

Member (A)

  
(S.K.Agarwal)

Member (J).