

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May 21 2001
14/1

O.A. No. 517/2001
T.A. No.

199

14/1/03

DATE OF DECISION _____

Badri Shankar Kapoor

Petitioner

Mr. Shiv Kumar

Advocate for the Petitioner (s)

Versus

UDF and another

Respondent

Mr. T.P. Sharma

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.P. Nagrath, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(A.P. Nagrath)
Administrative Member

(G.L.Gupta)
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Original Application No. 517/2001.

Badri Shankar Kapoor
S/o Shri Daya Shankar Kapoor
r/o 3.K.4 Vashali Nagar
Ajmer.

: Applicant.

rep. by Mr. Shiv Kumar: Counsel for the applicant.

-versus-

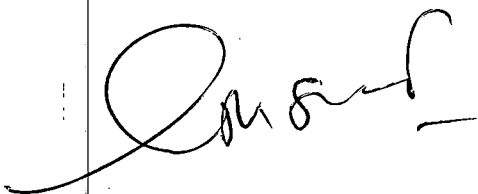
1. Union of India through
the General Manager,
Western Railway,
Church Gate, Mumbai.
2. The Chief Works Manager,
Western Railway,
Ajmer Division
Ajmer.

: Respondents.

rep. by Mr. T.P.Sharma : Counsel for the respondents.

CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.
The Hon'ble Mr. A.P. Nagrath, Administrative Member.

Date of the order: 27.02.03



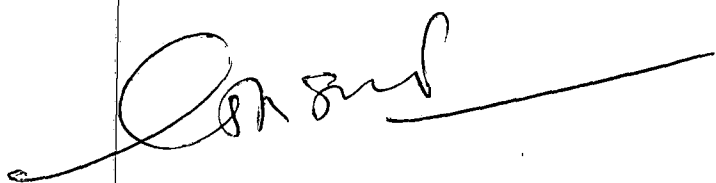
ORDER:

Per Mr. Justice G.L.Gupta:

The reliefs claimed in this O.A. are as follows:

- (i) the respondents may be directed to fix the pay of the applicant as Rs.7550/- as on June 1999 in the pay scale of Rs.5000-8000 onwards and they may be further directed to place the pay of the applicant in the pay scale of Rs. 6500-10500 by taking his pay Rs.7550/- basic as on June 1999 in the pay scale of Rs.5000-8000. His pay may be fixed in the pay scale of Rs.5000-8000 and in the pay scale of Rs.6500-10500 without taking reduced pay. Further the respondents may be directed to pay the arrear on account of his refixation and they may be further directed to refund the amount of Rs.19,729/- which they have recovered on event of his reducing the pay with interest.
- (ii) any other order/directions/reliefs may be passed in favour of applicant which may be deemed fit just and proper under the facts and circumstances of this case.
- (iii) the cost of this application may be awarded.

2. The case for the applicant is that he was working as ASM in the pay scale of Rs.1400-2300 but he was medically decategorised on 24.9.91. Whereupon, it is averred, the applicant was absorbed on the post of Assistant on 25.9.91. He joined duty on 26.9.91. After the 5th Pay Commission's report was accepted, the applicant's pay was fixed in the pay scale of Rs.5000-8000 vide order dated 15.1.98. His pay was fixed at Rs.7250 /- on 1.7.96 and at Rs.7400/- on 1.7.97. In June 1999 he was drawing the basic pay of Rs.7550/-. It is alleged that without any basis and without issuing show-cause notice to the applicant the pay of the applicant was reduced from Rs.7550/- to Rs.7250/- with effect from July 1999. The applicant made representation but it was



not accepted. It is prayed that a sum of Rs.19,279/- which has been recovered from the pay of the applicant should be refunded to him.

3. In the counter, the respondents, stand is that by mistake, the applicant's pay was fixed in the scale of pay of Rs.5000-8000, whereas the corresponding pay scale for Rs.1400-2300 is Rs.4500-7000. It is stated that when a mistake has been detected, the respondents have a right to correct the same.

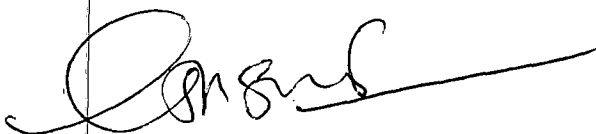
4. The applicant filed rejoinder reiterating the facts stated in the O.A.

5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. The contention of Mr. Shiv Kumar was that the recovery of the amount has been made from the salary of the applicant without issuing show cause notice to him and thus rules of natural justice have been violated. His contention was that even if the stand of the respondents is correct, there also a notice was required to be issued before making recovery and before reducing the pay of the applicant, which he was getting till June 1999.

7. On the other hand, Mr. Sharma, contended that the respondents' had a right to correct the mistake and the Court should not interfere in this matter.

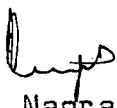
8. It is evident from the record that before effecting the recovery of the amount and before reducing the pay of the applicant, no show cause notice was issued to him. Any order reducing the pay and effecting recovery can be passed only after following the principles of natural justice, which has not been done in this case.




Therefore, the order of recovery, as also the order reducing the pay of the applicant, are liable to be quashed on this ground alone.

9. Consequently, the action of the respondents in reducing the pay of the applicant as also in effecting the recovery of Rs.19,279/- from his pay is hereby quashed. The respondents shall refund the amount to the applicant within two months from the date of communication of this order. It is, however, made clear that this order will not preclude the respondents from passing appropriate order after following the principles of natural justice.

10. The D.A is allowed accordingly. No order as to costs.


(A.P. Nagrath)
Administrative Member


(G.L. Gupta)
Vice Chairman.

jsv.