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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JABALPUR

Original Application No. 859 of 2006

Jabalpur, this the 11th day of December, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman

Hon'ble Mr. M.K. Gupta, Judicial Member

T.C. Chouhan,
S/o. late K.S. Chouhan,
Aged about 63 years,
R/o. House No. 32, Dwarka Nagar,
R.S. Convent School, Gali No. 1,
Bhopal.

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Applicant

(By Advocate – Shri Akash Choudhury on behalf of Shri S. Paul)

V e r s u s

1. Union of India,
Ministry of Railway,
Through its General Manager,
West Central Railway,
Indira Market,
Jabalpur.
2. Divisional Railway Manager,
West Central Railway,
Bhopal Division,
Bhopal.
3. Financial Advisor & Chief
Accounts Officer, West Central
Railway, Indira Market,
Jabalpur.

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Respondents

(By Advocate – Shri M.N. Banerjee)

ORDER (Oral)

By M.K. Gupta, Judicial Member –

In this application filed under Section 19 of the Administrative
Tribunals Act, the applicant seeks the following relief:

“(ii) Direct the respondents to furnish the details of payment
to the applicant,

(iii) Direct the respondents to pay arrears of pay treating him Mail Express Driver w.e.f. 26.5.1997 till the date of his normal date of superannuation,

(iv) Direct the respondents to pay Mileage Allowance to the applicant w.e.f. 26.5.1997 treating that he is working as Mail Driver,

(v) Direct the respondents to issue service certificate treating him as Mail Driver and also issue P.T.Os. treating him as Mail Driver,

(vi) Direct the respondents to pay city and night duty allowance w.e.f. 26.5.1997,

(vii) Direct the respondents to pay interest on arrears of Mileage Allowance and difference of salary."

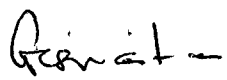
2. On an earlier occasion the applicant approached this Tribunal by instituting OA No. 694 of 2005, wherein a challenge had been made to an order dated 15th March, 2005 which provided him proforma promotion as Mail Driver w.e.f. 26.5.1997 and consequently denied him the arrears of pay and allowances of the promotional post. The said Original Application was allowed vide order dated 2.2.2006 quashing the order at 15th March, 2005 to the extent which deprived him the benefit of arrears of pay and allowances on the post of Mail Driver w.e.f. 26.5.1997. Accordingly, the respondents were directed to pay arrears of promotional post within the time prescribed.

3. In this application, applicant is seeking certain relief in the nature of mileage allowances treating him as Mail Driver for all purposes as well as to direct the respondents to pay him city and night duty allowances w.e.f. 26.5.1997, besides arrears of pay and allowances. On the face of it the relief sought hereinabove had not been made as subject matter in the earlier OA No. 694/2005, though these aspects were known to him. It is an admitted fact that in compliance of this Tribunal's order dated 2.2.2006, he was paid Rs. 14,083/- being the difference of pay. Therefore, after hearing learned

counsel for the parties we are of the considered view that the relief sought for in present OA is barred invoking the principles of Constructive resjudicata under Section 11 of the CPC though provisions of CPC are not applicable, but the principles laid down therein are squarely applicable to the present proceedings. As per Explanation IV, any matter which might and ought to have been made ground of defence or attack in former proceedings shall be deemed to have been a matter directly and substantially in issue.

4. In view of above discussion we do not find any substance and merits in the relief claimed. We may also note the fact that applicant had already attained the age of superannuation in the year 2003. Accordingly, we dismiss the Original Application in limine under Section 19 of the Administrative Tribunals Act, 1985.


(M.K. Gupta)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिनिधि कार्य पत्र --

(1) सचिव, ज. प्र. अधीनस्थ सेवा आयोग, जबलपुर



(2) अध्यक्ष, ज. प्र. अधीनस्थ सेवा आयोग, जबलपुर

(3) प्र. अधीनस्थ सेवा आयोग, जबलपुर

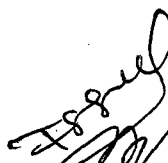
(4) ज. प्र. अधीनस्थ सेवा आयोग, जबलपुर

सूचना एवं आवश्यक कार्यवाही

उप निरीक्षक



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