

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
CIRCUIT COURT SITTING AT BILASPUR

Original Application No 467 of 2005

~~Given by~~ This the 27<sup>th</sup> day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

1. S.K. Malwar  
S/o G.N. Malwar  
And 6 others.

Applicants

(By Advocate - Shri G.S. Ahluwalia)

VERSUS

1. Union of India  
Through The General Manager  
South Eastern Railway Garden Reach,  
Calcutta-43 (W.B.) and 4 Others.

Respondents

(By Advocate - Shri M.N. Banerjee)

ORDER

By Madan Mohan, Judicial Member -

By filing this Original Application, the applicants have sought the following main reliefs :-

"i) Declare the action of the respondents denying the benefit of higher fixation of pay in spite of the existing rules and reducing the pay of the Applicants by several stages below on their promotion as Guards in the identical grade as unlawful and illegal.

ii) Hold that, in pursuance thereof, the Applicants be allowed the benefits of pay fixation under R.R.-22 (C) on their promotion as Guards Grade Rs. 1200-2040 (RPS) from the date, each of them had been promoted in 1989.

iii) Direct the respondents to re-fix the pay under R.R.-22 (C) by protecting their existing pay as Sr.T.N.C and arrange payment of arrears of pay, increments and allowances etc. that may become due and admissible on such re-fixation, with interest at marked rate within the stipulated period.



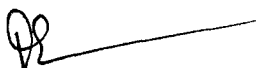
2. The brief facts of the case are that the applicants were promoted as Sr. Train Numbering Clerks (for short 'TNC') in the pay scale of Rs.1200-2040 vide order dated 30.7.1986 on adhoc basis and subsequently they were regularized vide order dated 19.6.1989 on the said post. According to the applicants, they were promoted as Goods Guard vide order dated 7.4.1989 in same scale against departmental quota by the respondent No.2. The applicants joined as Goods Guard in the month of April 1989 on different dates as per promotion order Annexure-A-3. The applicants contended that after joining as Guards their pay was reduced to the minimum pay of Goods Guard against the rules. The applicants are put to loss of 3 to 5 increments below. After joining as Goods Guards, they represented against the wrong fixation of pay to respondent No.2, however no action has been taken by the respondents then they sent a joint representation to respondent No.1 on 24.2.99 (Annexure-A-7). In the meantime the Railway Board have issued a letter dated 24.5.1999 (Annexure-A-4) stating to fix the pay of employees on appointment from one post to another carrying identical scales of pay under FR-22 (c) and make payment of arrears if due. After waiting of long time the applicants sent a legal notice on 30.9.99 to the respondents for implementing the instructions contained in Annexure-A-4. However, no action has been taken by the respondents, hence they filed OA No. 822/99 which was disposed of vide order dated 20.4.2004 directing the applicants to make detailed representation to the respondent No.1 and the respondent No.1 shall consider and dispose of the said representation of the applicants by passing a detailed and reasoned order. The applicants submitted their representation Annexure-A-8 which was rejected by the respondents. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.



4. The learned counsel for the applicants argued that according to letter dated 24.5.1999 (Annexure-A-4) issued by the Railway Board, sanctioned by the president, clear instructions were given to the respondents to fix the pay of employees on appointment from one post to another carrying identical scales of pay (like that of the applicant) under FR-22 (c) and make payment of arrears. However, the respondents themselves violated the Railway Board's instructions whereas they are bound to implement the same in true spirit. The learned counsel for the applicant also argued that reduction in pay of the applicants by 3 to 5 stages below in the same time scale in ab-initio void. There is no rule which permits reduction in pay when employee opts to seek promotion on a post which is permissible as per channel of promotion. Hence, this OA deserves to be allowed.

5. The learned counsel for the respondents argued that the applicants were promoted as Sr. TNC vide order dated 30.7.86 on adhoc basis with a clear instructions that the promotion does not confer any right to them for seniority, pay fixation, continuance as such or similar promotion in future in preference to their seniors or staff selected. He has also contended that vide order dated 19.6.1989 (Annexure-A-2), the applicants were regularized on the post of Sr.TNC in the scale of Rs. 1200-2040 w.e.f. 19.6.1989, However before publishing the panel of Sr. TNC, the applicants have joined the post of Goods Guard in the same scale on 7.4.1989. The learned counsel for the respondents further argued that before joining to the post of Goods Guard on regular basis the applicants have not been regularized on the post of Sr.TNC as they have refused to appear in the suitability test, hence after joining to the post of Goods Guard on regular basis, their pay have been fixed by taking the pay of their existing post Train Number Clerk in the scale of Rs.950-1500 and the same have been done as per the extent rule. The learned counsel for the respondents also argued that FR-22 (C) was clarified through advance correction slip No.14 of Indian Railway Establishment Code



6. Considering all the facts and circumstances of the case, we are of the considered opinion that this OA is bereft of merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)  
Judicial Member

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