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FORM NO.4

CCP. No. 56/2005

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Order of the Tribunal

24.8.2005

Applicant by Shri S. Paul.

Shri M.N. Banerjee, Standing counsel for the Railways is also present in the court.

The learned counsel for the contemner Shri M.N. Banerjee submitted that the directions given by the Tribunal on 22nd January, 2004 in OA No. 452/2000 have been fully complied with. The applicant has been granted antidated promotion and his pay has also been fixed and accordingly he is granted due seniority from 1998. ~~XXXXXX~~ His pay is also fixed notionally. ~~XXXXXX~~ Thus the direction given by the Tribunal have been fully complied with.

On the other hand the learned counsel for the applicant submitted that the direction given by the Tribunal has not been complied with. The applicant has been granted the promotion from the due date but he has not been granted the arrears. He has submitted that the direction given by the Tribunal is that all consequential benefits be ~~XXXXXX~~ given to the applicant and which included the payment of arrears of pay. He has relied upon the judgment of the Division Bench of the Principal Bench passed in a CCP No. 100/89-Rai Singh Vs. UOI & Ors. (1989) 11 ATC 374, wherein the Division Bench of the Tribunal has clarified that payment of arrears of pay would be part of the consequential benefits. He has also relied upon the judgment of the Full Bench of the Jodhpur Bench of the Tribunal in the case of Devi Lal and Ors. Vs. UOI, 2002-2003 AT Full Bench ~~XXXXXX~~ Judgments, 250, wherein the Full Bench has ~~XXXXXX~~ declared para 228 of IREM as ultra vires.

We find that the judgment relied upon by the learned counsel for the applicant in the case of ~~XXXXXX~~ Rai Singh (supra) is distinguishable and is not applicant in the present case as in ~~XXXXXX~~ that case the applicant was ~~XXXXXX~~ terminated from service and on his reinstatement he was ~~XXXXXX~~ granted the arrears of pay. In this case the applicant has been granted notional promotion and as he has not shouldered the higher responsibilities from that date he is not entitled for the arrears of pay. As per the legal position no fresh

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direction could be given in a CCP and also no relief can be granted to the applicant.

In view of the aforesaid position, the CCP is dismissed. The applicant will be at liberty to file an OA if he still feels aggrieved and so advised.

(Madan Mohan)

JM

(M.P. Singh)

VC