

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT GWALIOR

Original Application No. 494 of 2004

Gwalior, this the 12th day of September, 2005

Hon'ble Shri M.P. Singh, Vice Ghairman
Hon'ble Shri Madan Mohan, Judicial Member

Anshuman Yadav, Son of Dr. Ramsingh
Yadav, aged about 35 years, Suprintendent
of Police, Shivpuri, resident of S.P.
Bunglow, Shivpuri, M.P.

... Applicant

(By Advocate - Shri Alok Katare)

V e r s u s

1. Union of India, through Ministry
of Home Affairs, New Delhi.
2. State of Madhya Pradesh, through
Secretary, Department of Home,
Vallabh Bhawan, Bhopal, M.P.
3. Director General of Police,
Bhopal, Madhya Pradesh.
4. DIG (Police), (Administration),
PHQ, Bhopal, M.P.

... Respondents

(By Advocate - None)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has
claimed the following main reliefs :

"i) to issue a writ in the nature of mandamus
respondents may kindly be directed to give the benefit
of Rule-4 of the Rules of 1954 to the petitioner with
all consequential benefits,

ii) to issue a writ in the nature of mandamus
respondents may kindly be directed to refix the pay
scale of the petitioner,

iii) to issue a writ in the nature of mandamus
respondents may kindly be directed to produce the
relevant record relating to the pay-fixation of the
petitioner."

2. The brief facts of the case are that the applicant
appeared in the examination conducted by the Union Public
Service Commission in the year 1991 and was selected in
Indian Railway Traffic Service. The applicant joined the

Indian Railway Traffic Service on probation at National Academy of Direct Taxes Nagpur and thereafter he completed 3 and half months training of foundation course. The applicant was promoted ^{to} ^{time} in senior scale of (Rs. 10,000-15,200/-) on regular basis with effect from 29.1.1998 and his pay was fixed at the stage of Rs. 10,000/-. He was confirmed in senior scale as per Para 3.1(C)(1) of Railway Board letter dated 25.5.1990.

2.1 In the year 1997 the applicant again appeared in the examination conducted by the Union Public Service Commission and was selected for Indian Police Service. The applicant had joined the Indian Police Service on 28.12.1998. At the time of his joining in Indian Police Service his pay was fixed at Rs. 8,000/-. The applicant made several representations with regard to his pay fixation as per Rule 4 of the Indian Police Service (Pay) Rules, 1954. An order dated 31st December, 2002 was issued, whereby the services of the applicant rendered in the Railway from 6.9.1993 to 28.12.98 was counted for the purposes of pension. However, the pay of the applicant has not been re-fixed as per the aforesaid rules. Hence, this Original Application is filed.

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3. The respondents/in their reply have stated that they have issued an order dated 31st December, 2002, whereby the period of services of the applicant from 6.9.1993 to 28.12.1998 ^{shall} be considered and calculated for the purpose of calculation of his pensionary benefits. As regards the re-fixation of the pay in terms of pay protection, the respondents were required to have relevant information from the Railway Department. Accordingly, they have sought information from the office of General Manager, North Eastern Railway, Gorakhpur. Although the information with regard to grant of senior scale has been received by them but a specific date in terms of confirmation could not be obtained by

them from the Railways. They have, therefore again sought specific information with regard to the confirmation of the date of service of the applicant. In absence of the specific information from the Railways/^{it} is not possible to protect the pay of the applicant in terms of Rule 4 of the Indian Police Service (Pay) Rules, 1954. However, on immediate receipt of the required information from the Railways, the respondents shall proceed further in accordance with rules and law.

4. None is present for the respondents. Since it is an old case of 2004, we proceed to dispose of this Original Application by invoking the provisions of Rule 16 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the applicant.

5. We have given careful consideration to the rival contentions made on behalf of the parties. The question for consideration before us is whether the applicant who had earlier worked in the Indian Railways and granted senior time scale of Rs. 10,000-15,200/-, when appointed in Indian Police Service is to be given pay protection under Rule 4 of Indian Police Service (Pay) Rules, 1954. Rule 4 of the Indian Police Service (Pay) Rules, 1954 provides as such :

"4. Fixation of initial pay in the time scale - (1) The initial pay of a direct recruit shall be fixed at the minimum of the junior time scale :

Provided that, if a direct recruit holds a lien, or would hold the lien had his lien not been suspended, on a permanent post, under the rules applicable to him prior to his appointment to the Indian Police Service-

(a) his initial pay shall be regulated as follows :-

- (i) he shall, during the period of probation draw the pay of the permanent post if it is more than minimum of junior scale,
- (ii) on confirmation in the Indian Police Service-

(1) If he was holding a Class I post before appointment to the Indian Police Service his pay shall be fixed at the same stage as the pay in the Class I post if there be such a stage in the junior scale admissible to a member of the Service, or at the next lower stage if there is no such stage in the junior scale admissible to a member of the Service. Where the pay so fixed in the Indian Police Service is less than his pay in the Class I post, he shall be allowed the

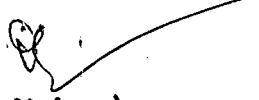
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difference as personal pay to be absorbed in future increments, and"

During the course of arguments the learned counsel for the applicant has submitted certain documents. These documents are taken on record. A document dated 31.5.2002 issued by the North Eastern Railway clearly shows that the applicant was earlier appointed in the Railways on 6th September, 1993. After completing 4 years of service he was granted senior time scale of Rs. 10,000-15,200/- with effect from 29.1.98. The applicant took over charge in the senior ^{Time} scale in the afternoon of 29.1.1998. The pay of the applicant was also fixed at Rs. 10,000/- on 30.1.1998. We also find that with regard to his re-fixation of pay, the North Eastern Railway, Gorakhpur has issued the letter dated 25.7.2005.

6. Considering the aforesaid position, we feel that ends of justice would be met if we direct the respondents to re-fix the pay of the applicant in terms of Rule 4 of Indian Police Service (Pay) Rules, 1954, quoted above, giving him ^{with} consequential benefits. the benefit of services rendered by him in the Railways/ We do so accordingly. The respondents are further directed to comply with the aforesaid order within a period of two months from the date of receipt of a copy of this order.

7. Accordingly, the Original Application stands disposed of in the aforesaid terms. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman