

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 545 of 2004

Indore, this the 17th day of October, 2005

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

L.S. Chauhan, Retired Asstt.  
Engineer (C), Western Railway,  
Ratlam, R/o. 917/B, Road No. 4,  
Near Railway Colony, Ratlam.

... Applicant

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India & Others  
Represented by -

1. The General Manager,  
Western Railway,  
Churchgate - Mumbai - 20.

2. The Dy. Chief Engineer (C),  
Western Railway, Ratlam. ... Respondents

(By Advocate - Shri Y.I. Mehta, Sr. Adv. alongwith Mrs. S.H. Mehta)

O R D E R (Oral)

By Madan Mohan, Judicial Member -

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

"8.1 The respondents may kindly be directed to fix the pay of the applicant and promote him from the date of promotion of his juniors to the post of Senior Scale in pursuance of the office order dated 30.9.2003,

8.2 the respondents may kindly be directed to grant proforma pay fixation at par with his juniors,

8.3 after pay fixation in Senior scale all the settlement dues should be calculated on revised pay and paid all the resultant arrears,

8.4 The respondents may kindly be directed to grant increments and all other allied benefits,

8.5 difference of Gratuity, commutation, leave emoluments etc. may be calculated on revised pay and be paid,

8.6 Pension should be calculated and revised pay fixation on promotion,

8.7 interest on all settlement benefits at the rate of 18% per annum may kindly be allowed."



2. The brief facts of the case are that the applicant retired from Railway service on 31.1.1992 on attaining the age of superannuation. While in service, he was promoted as Assistant Engineer after selection under panel dated 12.11.1986, alongwith 86 candidates. The juniors of he applicant were promoted to the senior scale but the name of the applicant was ignored without any cause. Looking to it the applicant had submitted his representation dated 15.5.1990 but no fruitful result was received from the respondents. The applicant was served with a major penalty charge sheet vide letter dated 10.5.1990. The same was finalized by dropping the charges as advised by the respondent No. 2 vide letter dated 20.4.2000. Again the applicant submitted representation to extend him the benefit of promotion. Ultimately he has filed OA No. 472/2001 and on 25.1.2002 the Tribunal while disposing of the said OA directed the applicant to submit a fresh representation alongwith the judgment. He filed the fresh representation but later on he had to file CCP No. 39/2003. Notices were issued but no action was taken in the matter and later on the respondents had filed the office order dated 30.9.2003 alongwith the reply. Thus, the CCP was dismissed on the ground that the orders have been fully complied with. But the respondents have not yet fixed the pay of the applicant in-spite of five months duration having elapsed. He has also filed representation on 19.2.2004 but no reply has been given by the respondents. Hence, this Original Application is filed.

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

4. It is argued on behalf of the applicant that the juniors were promoted ignoring the applicant. The applicant had filed OA No. 472/2001 and the Tribunal vide its order dated 25.1.2002 directed the respondents to dispose of the fresh representation of the applicant within a period of three months. But they did not take any action. The applicant filed CCP No. 39/2003 and in which the respondents/contemnors in their



reply to the CCP has mentioned that they have complied with the orders of the Tribunal and issued the promotion order dated 30.9.2003. On this ground, the CCP was dismissed. But till now the respondents have not considered the relevant claim of the applicant for which he is legally entitled.

5. In reply the learned counsel for the respondents argued that the applicant has been legally given pro-forma promotion from the date when his juniors were promoted. However, the pro-forma fixation order was issued in the year 2003 because originally he was working under DYC EC Ratlam and was transferred to the office of survey unit. Therefore, the delay was caused in considering the representation of the applicant. According to the order Annexure A-8/A the leave salary, gratuity and family pension have been calculated as per the calculation sheet Annexure R-1. A cheque dated 25.11.2004 for Rs. 2,000/- being a difference of salary and another cheque dated 9.12.2004 for Rs. 8896/- have been sent to the applicant. As the applicant did not shoulder the responsibility of higher promotion post, he is not entitled for the payment of difference of salary between the salary as per pro-forma fixation and the salary already paid to him in view of the Railway Board circular dated 21.9.1988. The applicant has been paid the arrears as admissible under the rules. No interest is also to be paid to the applicant. This Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the applicant had filed OA No. 472/2001 and the Tribunal has directed vide order dated 25.1.2002 to the applicant to file afresh representation alongwith the copy of the judgment and respondents were also directed to dispose of the said representation of the applicant within 3 months from the date of receipt of the representation of the applicant. When no action was taken by the respondents the applicant filed the CCP No. 39/2003. The notices were



sent to the respondents and the respondents have filed their reply stating that the orders of the Tribunal have been complied with and the necessary promotion order dated 30.9.2003 has been passed and the CCP was dismissed. Now the grievance of the applicant is that the respondents have not yet fixed the pay of the applicant in-spite of five months duration having been elapsed and he has submitted a representation to the respondent No. 1 dated 19.2.2004 but no reply is given so far. In this case we find that the pro-forma promotion to the applicant has already been granted with reference to the immediate junior to the applicant. However, the consequential benefits of arrears of pension and other retiral benefits have not been paid to the applicant.

7. Under these circumstances, we find that ends of justice would be met if we direct the respondents to make the payment of pension and other retiral dues to the applicant within a period of three moths from the date of receipt of a copy of this order. We do so accordingly.

8. Accordingly, the Original Application stands disposed of with no order as to costs.



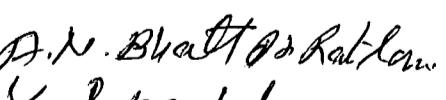
**(Madan Mohan)**  
Judicial Member

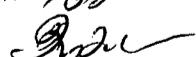
  
**(M.P. Singh)**  
Vice Chairman

मुख्यमंत्री राज्य परिषद् विधायक सभा विधायक सभा कांगड़ा विधायक सभा  
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“SA”

  
22-11-05

  
**P.N. Bhattacharya**  
  
**Y.L. Mehta**

  
**B.R. Dutt**