

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT GWALIOR**

Original Application No 825 of 2004

Jabalpur, This the 24th day of October, 2005.

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

K.S. Bhatnagar S/o Late Shri R.S. Bhatnagar
Aged 60 1/2 years, Occupation- Retired from
The post of Senior Section Engineer (SSE)
Traction Rolling Stock (TRD) from North
Central Railway, Agra Division, Agra (UP)
R/o Flat No. 104, Krishna Apartment, Kaith
Bali Gali, Lashkar, Gwalior (M.P.)

Applicant

(By Advocate – Shri S.C. Sharma)

V E R S U S

1. The Union of India Through General Manager
North Central Railway, Allahabad (U.P.)
2. Divisional Railway Manager
North Central Railway, Jhansi
3. Divisional Railway Manager, North Central
Railway, Agra Division, Agra (U.P.)
4. Divisional Railway Manager, Central Railway,
Bhusawal Division, Maharashtra. -Respondents

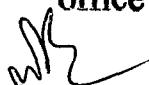
(By Advocate – Shri Raja Sharma on behalf of Shri V.K. Bhardwaj)

O R D E R

By M.P.Singh, Vice Chairman –

By filing this Original Application, the applicant has sought
the following main reliefs :-

“(A) The order contained in annexure A/11 may kindly be quashed because it was never delivered to the applicant but after retirement when the deductions were made in Annexure A/24, the applicant collected the same from DRM office Jhansi & Agra.



(B) That, the action of and order of deduction/recovery of Rs. 30,000/- from final settlement vide order in Annexure A/24 may kindly be quashed because before passing this order no opportunity of hearing was given. The respondent No.3 be directed to make payment of Rs.30,000/- to the applicant alongwith 12% interest.

(C) That, the respondents be directed to regularize the whole adhoc period from 20.3.85 to 19.8.85 and correctly fix the pay of applicant and thereafter fix correctly the pension of applicant and make correct payment of retiral dues."

2. The brief facts of the case are that the applicant was initially appointed to the post of Highly Skilled Fitter Grade-I on 21.3.1969 and in due course of time he was promoted to the post of Chargeman Grade-A on 7.4.1976. He was transferred from Bhusawal Division to Jhansi Division on 31.8.1983 and posted in Mathura on the post of Traction Power Controller. Thereafter, the applicant and two others,namely, Shri H.K.Khanna and Shri S.K.Kar were promoted as Dy.Chief Traction Power Controller (for short 'Dy.CTPC'), on adhoc basis vide order dated 3.9.1985 w.e.f. 20.3.1985. In the meantime the applicant submitted a representation dated 2.4.1985 to the DRM,Bhusawal requesting him to accord seniority and pay fixation on the post of Dy.CTPC w.e.f.21.3.1985 because his juniors, namely, S.S.Bhaktani S.S.Santani and M.L.Kamlawat, at Bhusawal Division were promoted on the said post w.e.f. 21.3.1985 on adhoc basis. The DRM, Bhusawal had written a letter dated 2.4.1985 (Annexure-A-3) to the Sr.DEE (T.D.Jhansi) to give promotion to the applicant and Shri H.K.Khanna and Shri S.K.Kar w.e.f. 21.3.1985 and accord them seniority from that date and fix their pay notiionally. Thereafter, the Sr.DEE,Jhansi vide order dated 19.12.1985 granted seniority and promotion to the applicant and Shri K.K.Khanna and Shri S.K.Kar with effect from 21.3.1985 on the basis of the order dated 20.8.1985 issued by the CPO,Mumbai. Thereafter, vide order dated 4.3.1987 passed by the DRM, Jhansi the applicant was regularized on the post of Traction Foreman,Agra in the grade of



Rs.700-900(Revised Rs.2000-3200). He was further promoted to the post of Chief Traction Foreman in the grade of Rs.2375-3500 vide order dated 21.1.1994 w.e.f. 1.3.1993. The post of Chief Traction Foreman was redesignated as Senior Section Engineer.

2.1 The applicant has submitted that at the time of his promotion as Dy.Chief Traction Power on adhoc basis he had submitted his option for fixation of pay wherein he had requested that his pay in the higher pay scale of Rs.700-900 be fixed after earning his next increment in the lower grade i.e. Rs.550-750. The next increment in the lower grade was due on 1.4.1985. This option was accepted by the respondents and the pay of the applicant was rightly fixed and it remained continued till 1994. The applicant had also submitted his option in 1994 when he was promoted as SSE in grade Rs.2375-3500. Thereafter, the recommendation of the 5th Pay Commission came into force w.e.f.1.1.1996. The applicant submitted his option that his pay under the revised scales be fixed after getting his increment on 1.4.1996 in the old pay scale. The respondents fixed the pay of the applicant at Rs.10150/- as on 1.3.1996. Thereafter, the applicant was granted regular increments on 1.3.1997 and 1.3.1998. All of a sudden the pay of the applicant was reduced on 1.1.1999 and instead of Rs.10,600/- he was paid Rs.10,375/- in the month of December,1998. He submitted a representation to the respondent no.2 on 28.6.1999. Thereafter, the respondents vide order dated 23.7.2002 regularized his adhoc period from 30.1.1987 to 3.3.1987. The applicant vide his representation dated 6.5.2003 requested that his adhoc period from 21.3.1985 to 19.8.1985 may be regularised and his pay be fixed. But nothing has been done. The applicant has retired from service on 31.12.2003. Thereafter, the applicant submitted several representations, but nothing has been done. Hence this Original Application.

3. The respondents in their reply have stated that the representation of the applicant for fixation of his salary is pending

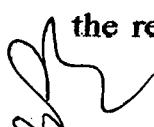
before the Headquarters Office, Central Railway and, therefore, an amount of Rs.30,000/- has not been paid to the applicant till the final orders are passed by the competent authority. In terms of CPO's ,Central Railway, Mumbai , approval dated 20.8.1985, S/Shri H.K.Khanna and S.K.Kar were promoted vide order dated 3.9.1985 w.e.f. 20.8.1985, and not from 20.3.1985 as mentioned by the applicant. The CPO(Electrical) Mumbai has specifically and categorically stated in his letter dated 20.8.1985 that the above named employees are being promoted purely on adhoc basis subject to availability of vacancies in Jhansi Division T/D Organization. The Headquarters office vide its letter dated 27.6.2001 had advised that the competent authority had accorded ex post facto saction for the regularization of adhoc arrangement for the period of 20.8.1985 to 29.1.1987 in favour of the applicant. As regards his claim for adhoc period from 21.3.1985 to 19.8.1985 based on his junior employees in parent cadre put to officiate on adhoc basis w.e.f.21.3.1985, the same cannot be claimed as a matter of right. However, the DRM(P)Bhuswal, vide his letter dated 2.4.1985 had stated that the employees,namely, Shri H.K.Khanna, Shri K.S.Bhatnagar and Shri S.K.Kar working in Jhansi Division in TRD Organization, would have been promoted to the grade of Rs.700-900, if they had continued to work on this Division w.e.f. 21.3.1985. Shri S.S.Bhakhtani, Shri S.S.Santani and Shri M.L.Kamlawat have been promoted in Grade Rs.700-900 in Bhuswal Division. Therefore, the benefit of adhoc promotion to officiate w.e.f. 21.3.1985 based on fact that junior employees promoted in other Division cannot be extended to the employees working in Jhansi Division. The respondents have further submitted that vide Sr.DEE/TD,Jhansi letter dated 19.12.1985 the applicant along with two other employees, namely, Shri H.K.Khanna and Shri S.K.Kar was promoted as per CPO's directives and promotion orders were treated as proforma posting w.e.f. 21.3.1985.



3.1 The respondents have further submitted that the applicant was promoted as Dy.CTPC purely on adhoc basis in the grade Rs.700-900, therefore, question for asking option for fixation of pay does not arise as per rules and applicant's pay was fixed at Rs.760/- w.e.f.21.3.1985 in the grade of Rs.700-900. Further increments had also been granted in March regularly. The applicant was further promoted to the grade of Rs.2375-3500 under upgradation scheme and he was asked to submit his option for fixation of pay. His request for fixation of pay was received in DRM(P) Office Jhansi on 22.11.1994 after expiry of one month of his assuming charge of higher grade w.e.f.21.10.1994. Hence the competent authority had not accepted the request of the applicant and his pay was fixed on his resumption of charge of higher grade at Agra w.e.f. 21.10.1994 and his pay was fixed as per rules. However, the case of the applicant has been referred to CPO(EL)CST Mumbai vide letter dated 12.12.2002 and the same is still under consideration. Agra Division has been formed and started functioning w.e.f.1.4.2003. The applicant has been absorbed in the newly created Division on 'as is where is' basis and has retired on superannuation w.e.f. 31.12.2003. The respondents have further submitted that an amount of Rs.30,000/- has been deducted from the settlement dues of the applicant and is kept with the Railway administration to adjust the over payment of the salary made to the applicant.

4. We have heard the learned counsel of parties and perused the records. We have also given careful consideration to the rival contentions.

5. We find that the applicant in this OA has prayed for a direction to the respondents to regularize the whole adhoc period from 20.3.1985 to 19.8.1985, and has also sought a direction to the respondents to make payment of Rs.30,000/-,which has been withheld by the respondents from his retrial dues. In this regard, the respondents have submitted that the case of the applicant has



been referred to CPO(EL) CST, Mumbai and the same is still under consideration. The amount of Rs.30,000/- has been deducted from the settlement dues of the applicant to adjust the overpayment.

6. Keeping in view the facts and circumstances of the case we are of the considered view that since the applicant has retired from Agra, it is the duty of the DRM, Agra to expedite a decision from the CPO (EL)CST, Mumbai which is pending with him for a long time and also settle the claim of the applicant and get Rs.30,000/- released after obtaining the approval of the competent authority, if otherwise admissible under the rules. Accordingly we direct the DRM, Agra to depute an officer to get the claim of the applicant, settled by visiting the authorities concerned who have to take a decision in the matter, and finalize the matter within a period of three months from the date of communication of this order. The OA is disposed of in the above terms. No costs.


(Madan Mohan)
 Judicial Member

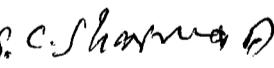

(M.P.Singh)
 Vice Chairman

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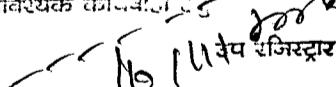
पृष्ठांकन सं. ओ/न्या.....जवलपुर, दि.....

घटिलिंग द्वारा दिला:-

- (1) खण्डिय, उत्तर प्रदेश सरकारी एसोसिएशन, जवलपुर
- (2) आवेदक द्वारा दिला.....के काउंसल
- (3) प्रत्यक्षी ग्रामीण, उत्तर प्रदेश क्षेत्रीय नियंत्रण बोर्ड
- (4) दंड सर, उत्तर प्रदेश राजनीतिक सुचना एवं वावरणक विभाग, दिल्ली


S.C. Sharma
 D.A. B.A.

N.K. Bhawaria
 B.A. B.Ed.


 No 11 वेप रजिस्ट्रार


 16.11.05