

**Central Administrative Tribunal**  
**Jabalpur Bench**

**OA No.953/04**

Indore, this the 17<sup>th</sup> day of August, 2005.

**C O R A M**

**Hon'ble Mr.M.P.Singh, Vice Chairman**

**Hon'ble Mr.Madan Mohan, Judicial Member**

Kripa Ram  
S/o Karmu  
R/o Village Virtarai  
P.O.Via Korba  
Distt. Korba.

Applicant

(By advocate :Shri S.Paul)

Versus

1. Union of India through  
General Manager  
South East Central Railway  
Bilaspur.
2. The Divisional Railway Manager  
South East Central Railway  
Bilaspur.
3. The Sr.Divisional Personnel Officer  
South East Central Railway  
Bilaspur
4. The Sr.Divisional Engineer (Coordination)  
South East Central Railway  
Bilaspur
5. The Section Engineer (P.Way)  
South East Central Railway  
Korba

Respondents

(By advocate Shri H.B.Shrivastava)

**ORDER**

**By Madan Mohan, Judicial Member**



By filing this OA, the applicant has sought the following reliefs:

- (i) Direct the respondents to give effect to the order passed by the appellate authority dated 20.11.96 with effect from 11.10.1994.
- (ii) Direct the respondents to pay the full salary with effect from 25.11.97 as if no punishment order dated 11.10.,94 has been imposed.
- (iii) Direct the respondents to pay the arrears of salary after implementing the modified punishment order dated 20.11.98 with effect from 11.10.94.
- (iv) Direct the respondents to pay the arrears arising out of implementation of Vth CPC.
- (v) Direct the respondents to refund the deducted amount of Rs.16,568/- from the DCRG.
- (vi) Direct the respondents to pay interest @ 18% per annum.

2. The brief facts of the case are that the applicant was initially appointed in the respondent department as Gangman on 16.2.1967. He was promoted as Sr.Gangman and Keyman and retired from service on superannuation as Mate on 28.10.2001. In 1994, after a departmental enquiry, the Assistant Engineer, South East Central Railway, Champa imposed on the applicant a punishment vide order dated 24.11.94 whereby the pay of the applicant was reduced by 2 stages from Rs.1110/- to 1070/- for a period of 3 years with non-cumulative effect. When the appellate authority did not decide the appeal of the applicant, the applicant filed OA No.483/97, which was disposed of by the Tribunal directing the appellate authority to reconsider the matter and pass a fresh order. Thereafter, the punishment of reduction of pay by 2 stages for 3 years was modified into that of reduction of pay by one stage for 3 years with non-cumulative effect. Thus after the modified punishment dated 20.11.98, the pay of the applicant should have fixed from Rs.1110/- to Rs.1090/-. The modified punishment order should have been made effective from the original punishment order dated 24.11.1994. Since the reduction of pay was imposed with non-cumulative effect, the pay of the applicant should have been restored in the year 1997. After 24.11.97, the reduced increment should have been included in the

salary of the applicant. The respondents did not restore the reduced pay of the applicant. The applicant was not given the second installment of arrears arising out of the implementation of the recommendations of Vth CPC. The applicant preferred a representation to the respondents for correcting the anomaly. However, no respondents did not take any steps in that regard. Due to the inaction of the respondents, the applicant could not get the correct salary when he was in service and therefore, his retiral dues and pension could not be correctly quantified. An amount of Rs.16,568/- was deducted from the DCRG of the applicant vide letter dated 1.3.2003 (Annexure A5) without giving any intimation to the applicant. The representation of the applicant remains unresponded to. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that as per the modified punishment order dated 20.11.98 the pay of the applicant could have been reduced only by one stage for 3 years. Since the appellate authority had modified the punishment order dated 11.10.94, the modified punishment should have been made effective from 11.10.94 and after completion of the punishment period, the pay of the applicant should have been restored. The learned counsel further argued that due to incorrect fixation of pay, the applicant had suffered monthly loss every month. The respondents had also not given the full arrears arising out of implementation of the Vth CPC recommendations to the applicant. An amount of Rs.16,568/- had been deducted from DCRG of the applicant without giving him any notice. The action of the respondents is violative of Article 14 of the Constitution of India.

4. In reply, learned counsel for the respondents argued that the punishment of reduction of pay was made effective from 24.11.94 and was to remain in force upto 23.11.97. The revised punishment order fixing his reduced pay at Rs.1090/- instead of Rs.1070/- was not given effect to and the applicant continued to draw pay @ Rs.1070/- and pay Rs.3510/- in Vth Pay Commission instead of Rs.3370/- from 1.1.96 till



November 1997 whereas the same was rectified and the pay was fixed at Rs.1090/-. Arrears amounting to Rs.1844/- being the difference of pay between Rs.1070/- and Rs.1090/- were worked out and adjusted in the pay of May 2002. The amount of arrears was adjusted in the overpayment made to the applicant due to Vth CPC arrears of Rs.2634/-. The applicant had superannuated on 28.2.03 with his last pay at Rs.4270/-. The respondents have annexed a fixation chart showing the fixation pay of the applicant on 1.1.96 with punishment as well as without punishment and further advancement of his pay after 1.1.96 which clearly indicated that his pay has been correctly fixed. Though the pay of the applicant was enhanced notionally with effect from 1.1.96 actual benefit had been extended from 23.11.97 as he was undergoing punishment of reduction of pay till 23.11.97. The applicant while in service had taken HBA of Rs.40,053/- which was to be repaid in 65 installments @ Rs.600 p.m. He superannuated before all the installments of the HBA could be repaid by him and the balance installment of Rs.11568/- was recovered from the DCRG of the applicants.

5. After hearing the learned counsel for the parties and careful perusal of the records, we find that the respondents have mentioned in their reply in Para 5.2 that the modified punishment has been given effect from 24.11.1994 and not from 11.10.94. The applicant in his rejoinder does not controvert this. The applicant has stated that he has not received an amount of Rs.1844/- being the difference of pay. He has further mentioned in the rejoinder that the respondents have not refunded the amount of Rs.5000/- to him. In this regard, learned counsel for the respondents has drawn our attention towards the remark in the rejoinder to the effect that regarding payment of Rs.5000/-, a cheque No.06600329 dated 23.2.05 has been issued in favour of the applicant in his bank account at SBI, Korba and the applicant does not controvert this fact. The contention of the respondents regarding the balance installment of the HBA recovered from DCRG of the applicant is also not controverted by the applicant



