

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 482 of 2002

Jabalpur, this the 7th day of January, 2004.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

Durga Singh S/o. Late Shri Tikam
Singh Aged 75 years
R/o Khitola Bazar,
Sihora Distt. Jabalpur
(working as driver in Railway Deptt) APPLICANT

(By Advocate - Shri Harish Agnihotri)

VERSUS

1. Union of India
Through General Manager,
Central Railway,
Mumbai(M.S.)
2. Divisional Railway Manager
Central Railway,
Jabalpur M.P. RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

The applicant by filing this Original Application has prayed for the following main reliefs-

"(i) To issue directions for payment of difference of arrears of salary on the basis of new pay scale 1200-1800 for 1.1.1984 to 30.6.1985 (for 1 and half year).

(ii) To issue direction for refixation of pension and also to pay the difference of arrears of pension decided on the basis of upgraded scale 1200-1800 and also to decide the retiral dues on the aforesaid basis.

(iii) To issue directions for the payment of market rate interest over the aforesaid amounts".

2. The brief facts of the case are that the applicant was working as Pump Driver in the Central Railway and he retired from service on 30.6.1985. After his retirement the respondents have promoted him in the grade of Rs.330-480 with effect from 1.1.1984 vide their order dated 23.5.1997. By filing this OA, the applicant

Contd.....2/-

has claimed difference of pay, from 1.1.1984 to ^{the} date of his retirement on 30.6.1985. He has also claimed consequential enhanced ~~retiral~~ benefits.

3. The respondents in their reply have stated that the applicant's promotion to the grade of Rs.330-480 with effect from 1.1.1984 till the date of his retirement i.e. 30.6.1985 was on notional basis and, therefore, he is not entitled for any arrears of pay for this period. They have also stated that consequential retiral benefits as a result of his promotion from retrospective date from 1.1.1984 have already been given to him. Therefore, the applicant has no case and this OA is liable to be dismissed.

4. Heard the learned counsel for the parties. We have given careful consideration to the pleas taken by both the parties. We find that the applicant has retired on 30.6.1985 from service. The respondents vide their order dated 23.5.1997 have promoted him from the pay scale of Rs.260-400 to Rs.330-⁴⁸⁰~~560~~ w.e.f.1.1.1984, as is evident from Annexure-A-4. In Annexure-A-4 the name of the applicant is placed at serial no.4. In that order it is clearly mentioned that the above promotion orders are provisional and subject to the decision of the Hon'ble Supreme Court. It has also been mentioned in that order that employees at serial nos.1 to 46 who have been given proforma promotion due to their demise/retirement against upgraded post in Gr.Rs.1200-1800 w.e.f.1.1.1984 are entitled for fixation of pay in the said grade and no arrears of pay are eligible to them. It has further been stated in that order that even the serving employees are eligible for fixation of pay on proforma basis and actual increase in the pay will be given from the date of issue of the orders i.e. when they shouldered responsibilities in the higher grades. Therefore, the applicant is not entitled for arrears of salary for the period 1.1.1984 to 30.6.1985. As regards the consequential benefit of

pension is concerned, the respondents in their reply have stated as under-

*On his average emoluments of 10 months back from his i.e. from 1.9.84 to 30.6.85 = 3348/10 = 334.80. Accordingly his pension has been fixed Rs.554/- with PP Re.1/- the 1/3rd commutation of Rs.554/- is Rs.184/-. The commutation value Rs.23096/- (-) 18826 = difference Rs.4268/- has already been paid to the applicant. Accordingly he has been paid DCRG on rate of pay Rs.338/- + DA 108 + IRI 50 + IR II 20 ADP 508 = 1024 x 16.5 = 16896 (-)15395 difference Rs.1501/-.

Hence applicant is not due for arrears of difference payment of wages w.e.f. 1.1.84 to 30.6.85 & his pension & commutation of pension, DCRG has already been revised and difference already paid.

However, as the applicant has claimed for arrears of wages & pensionary benefits in grade Rs.1200-1800 (RPS) is not entitled since the said grade was not implemented at the time of retirement, the above grade was implemented w.e.f.1.1.86, when he was no more in service. his pension case has been reviewed under the rules of Vth CPC now he is getting pension Rs.2000/- (-)184 commutation = Rs.1816/- w.e.f.1.1.96 and he has restored of commuted portion on 1.7.2000".

However, we find that the respondents have not produced any documentary proof by which his pension has been revised and arrears for dues of retirement benefits have been paid to him as stated in their reply. The respondents are, therefore, directed to pay consequential retirement benefits including arrears of pension on the basis ^{of revised pay &} with effect from 1.1.1986 and also revised pension from 1.1.1996 on the recommendations of the 5th CPC and pay him arrears, if not already paid, within a period of three months from the date of communication of this order.

6. In the result, the OA is disposed of in the above terms. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

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

rkv.

Final
21/1/04

पृष्ठकल सं 30/1/04..... जयपुर, दि.....

- (1) श्री *Shri H. Agnihotri*
 - (2) श्री *Shri Anu Banerjee H.C.I.B.D*
 - (3) श्री *Shri Anu Banerjee H.C.I.B.D*
 - (4) श्री *Shri Anu Banerjee H.C.I.B.D*
- सूचना एवं आवेदन संख्याओं हेतु *Shri Anu Banerjee*
1/2/11/04