

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
CIRCUIT CAMP AT BILASPUR

Original Application Nos 305 of 2002 and 646 of 2002

Bilaspur, this the 8th day of September, 2004

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

(1) Original Application No. 305 of 2002

D.Pundarikaksha son of Late  
Shri D.S.No. Gupta, aged about  
60 years, resident of Indra Nagar,  
Charaudha (BMY)  
Bhilai Mastering Yard, Distt. Durg  
Chhattisgarh.

APPLICANT

(By Advocate - Shri M.K. Verma)

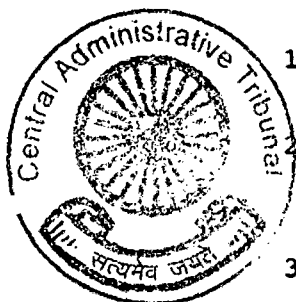
(2) Original Application No. 646 of 2002

Arun Rajak(S.C), S/o Shri Late Laxman  
Rajak, Aged about 61 years, R/o C/o  
S.Mehto, J.E. Grade-1(Electrical) Q  
No. 187/2 W.R.S. Colony, Raipur.

APPLICANT

(By Advocate - Shri M.K. Verma)

VERSUS



1. Union of India through Chairman Railway  
Board, Rail Bhawan, New Delhi.

General Manager South Eastern  
Railways, 11 Garden Reach Road,  
Calcutta.

3. Divisional Railway Manager, South  
Eastern Railways, Bilaspur.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee on behalf of Smt. I.Nair  
in both the OAs)

Common ORDER (ORAL)

By Madan Mohan, Judicial Member -

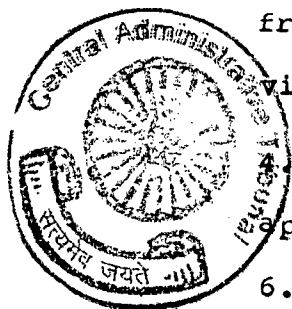
The issue involved in both the OAs is common and the facts  
and grounds raised are similar, For the sake of convenience  
both the OAs are being disposed of by <sup>a</sup>common order.

2. By filing the aforesaid OAs, the applicants have sought  
the following main reliefs :-

"7.1 to direct the respondents to do proper fixation of  
pay of applicant with all consequent benefits including  
arrears of salary.

7.2 to direct the respondents to pay salary of  
intervening period from 9.1.98 to 21.10.98 in the interest  
of justice"

3. The brief facts of the OA No. 305/2002 are that the applicant was appointed in the year 1963. He was promoted as Fitter Grade II from the post of Fitter Grade III and further promoted as Junior Engineer Grade-II in the year 1991 and was further promoted to the post of Junior Engineer Grade-I on 4.12.1996. Without being any allegation, the applicant had been compulsorily retired from service (in Public Interest) under Clause-4(ii) of Rule 2046 R-II vide order dated 1.1.98 (Annexure-A-1). Aggrieved by this order, the applicant has submitted his appeal on 2.2.98 (Annexure-A-2). The applicant was reinstated back in service vide order dated 21.10.1998 (Annexure-A-4). The applicant has preferred a representation to the respondent no.3 for grant of salary for the period from 9.1.1998 to 21.10.1998 (Annexure-A-5). But, it was rejected vide order dated 1.9.2000 (Annexure-A-7).



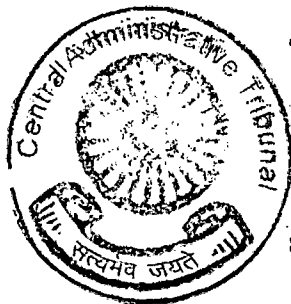
The brief facts of the OA No. 646/2002 are that the applicant was appointed under the respondents department on 6.2.1959 on the post of Khalasi. During the course of time he was promoted lastly to the post of Junior Engineer (Mechanical) on 4.12.1996. ~~on 4.12.1996~~ Vide order dated 1.1.1998 he was compulsory retired from service and he was reinstated back in service vide order dated 21.10.1998 (Annexure-A-3). Thereafter, the applicant has submitted his representation dated 1.2.99 <sup>period</sup> to the respondent no.3 for grant of salary for the ~~the~~ from 9.1.1998 to 21.10.1998. But, the respondents have rejected the claim of the applicant vide their order dated 10.9.2000 (Annexure-A-5). Hence, this OA.

5. Heard the learned counsel for the applicants and respondents and perused the records carefully.

6. It is argued on behalf of the applicants that the applicants were compulsorily retired from service vide order dated 1.1.1998 and on their representations they were reinstated

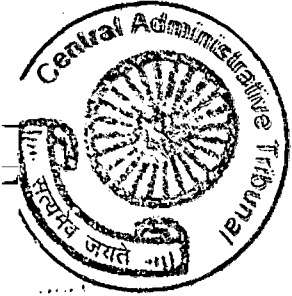
back in service vide order dated 21.10.98. There was nothing adverse about their work, conduct or integrity through out their service period. Subsequently, the applicants have submitted their representations for grant of salary for the period from 9.1.1998 to 21.10.1998, but their representations were rejected vide order dated 1.9.2000(Annexure-A-7) and 10.9.2000(Annexure-A-5) respectively.

7. In reply the learned counsel for the respondents has argued that the services of the applicant were not found satisfactory by the Review Committee and hence he was not recommended for retention beyond 55 years of age. They were compulsory retired from service and the order of the compulsory retirement is perfectly justified and legal. However, the competent authority took a lenient view and directed to re-instate the applicants in service and also took a decision that the intervening period be treated as leave due if applied by the staff or otherwise 'Dies Non'. The learned counsel for the respondents further stated that the applicants did not apply for regularisation of the intervening period hence the period was treated as dies-non.



8. After hearing the learned counsel for the parties and careful perusing the records, we find that the respondents have compulsory retired the applicants from the service beyond the age of 55 years as their services were not found satisfactory by the Review Committee. Subsequently, vide order dated 21.10.98 both the applicants have been reinstated in service. The respondents could not show us any document against the applicants about their work, conduct or integrity during their whole service period up to 1.1.98 i.e. the date of order of their compulsory retirement. The Review Committee must give cogent and sound reasons for passing such order of compulsory retirement from service on the applicants. Subsequently, the respondents have passed the order whereby the applicants were reinstated

in service. After perusing the whole material available before us nothing adverse has been found against the applicants regarding their service and performance in the department. Considering all the facts and circumstances of the cases, both the OAs are liable to be allowed. Accordingly, the OAs are allowed. The respondents are directed to pay the salary to the applicants for the period from 9.1.98 to 21.10.98. The respondents are further directed to comply with the said order within a period of three months from the date of receipt of a copy of this order. No costs.



Sd/-

(Madan Mohan)  
Judicial Member

Sd/-

(M.P. Singh)  
Vice Chairman

skm

पूरांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अयोधित:-

- (1) सचिव, उच्च न्यायालय नगर एग्रेसिभल, जबलपुर
- (2) आदेशक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) पंथकल, के.प्र.अ., जबलपुर न्यायापीठ  
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार