

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 750 of 2001

Jabalpur, this the 7th day of April, 2004

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

Earnest Lewis  
son of Late Shri I. Lewis  
aged about 55 years,  
Presently working as Charge-Man-Grade-I  
Vehicle Factory, Jabalpur,  
R/o 3147, Type-3 Sector-1 Vehicle  
Factory, Estate, Jabalpur.

APPLICANT

(By Advocate - Shri S. Paul )

VERSUS

1. Union of India,  
through its Secretary,  
Ministry of Defence, New Delhi.
2. Chairman,  
Ordnance Factory Board,  
10-A Shahid Khudli Ram Bose Marg,  
Calcutta.
3. General Manager,  
Vehicle Factory Jabalpur,  
Jabalpur.

RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the the applicant has sought  
the following main relief :-

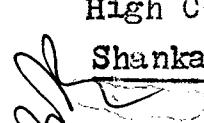
"(ii) Upon holding that the action of the  
respondents in not giving the arrears of wages  
to the applicant as Charge-man Grade-I w.e.f.  
1.11.1991 is bad in law, command the respondents  
to pay the arrears of the wages and all  
consequential benefits to the applicant as charg-  
man Grade-I as if he is holding that post from  
1.11.1991".

2. The brief facts of the case are that the applicant  
while he was working as Chargeman Gr.II was involved in  
a disciplinary case and a charge sheet under Rule 14 of  
CCS(CCA) Rules 1965 had been issued to him on 22.12.89  
for gross misconduct of "(i) habitual irregular  
attendance and (ii) unauthorised absence from duty".

In the meantime a DPC was held on 31.10.1991. Since, there was a charge sheet issued to the applicant, the result of the DPC in respect of the applicant was kept in sealed cover as required under the Rules. However, vide order dated 24.12.1991, the charge sheet issued to the applicant on 22.12.89 has been dropped by the respondents, and the sealed cover was opened, in which he was found eligible and he was recommended to the post of Chargeman Gr.I with effect from due date, ~~1.11.91~~. Accordingly he was promoted on the post of Chargeman Gr.I with effect from due date, ~~1.11.91~~. The applicant was promoted to the post of Chargeman Gr.I w.e.f. 1.11.91 vide order dated 21.1.2000 with the stipulation, that the financial benefit to him shall be admissible from the date of publication of factory order. Since, the applicant has not been given arrears of pay from the date of his appointment w.e.f. 1.11.91 to the post of Chargeman Gr.I, he has filed this OA.

3. Heard the learned counsel for the applicant and respondents.

4. The learned counsel for the applicant has stated that the applicant has been promoted to the post of Chargeman Gr.I w.e.f. 1.11.91 and the delay in finalisation of the disciplinary proceedings, and opening of the sealed cover is attributable on the part of the respondents and is not due to delay <sup>attributable</sup> on the part of the applicant. The applicant was prepared to work on the higher post from the due date but, he was denied the opportunity of working on the higher post. The respondents themselves are responsible for the delay in ~~the~~ finalisation of disciplinary proceedings. He has drawn our attention to the judgment of Hon'ble Supreme Court in the case of Union of India and Ors. Vs. K. V. Jankiraman and Ors., (1993) 23 ATC 322 and he has also drawn our attention to the judgment of Hon'ble High Court in the case of State of M.P. and Anr. Vs. Shankar Lal and Anr., 2001(2) M.P.H.T. 19.



5. On the other hand, the learned counsel for the respondents has stated that although the applicant has been granted promotion after opening the sealed cover from the due date i.e. 1.11.91 but another charge sheet was also issued to him on 30.12.91 which culminate in imposing the penalty on the applicant. Since, he was involved in another disciplinary proceedings, he could not be granted benefit of arrears of pay from due date i.e. 1.11.1991.

6. We have given careful consideration to the arguments advanced by the learned counsel for the parties. We find that the admitted facts of the case are that a charge sheet was issued to the applicant in the year 1989 and a DPC was held in which he has also been considered for promotion to the post of Chargeman Gr.I in the year 1991 and the result of selection of the applicant was kept in the sealed cover. The charge sheet was dropped by the respondents on 24.12.91. Accordingly, the applicant has been promoted as Chargeman Gr.I from due date i.e. 1.11.91. Since, the applicant has been promoted from the due date, there is no delay on the part of the applicant and he was not available to work on higher post. For the delay caused the respondents are responsible and, therefore, they cannot deny the arrears of pay to the applicant from due date on the post of Chargeman Gr.I.

7. As regards the contention of the respondents that he was subsequently issued a charge sheet which culminated into imposing the penalty is concerned it has no relevance in the present case, as the applicant had already been promoted w.e.f. 1.11.91 whereas the applicant has been served a charge sheet on subsequent date. Therefore, serving of charge sheet will not restrain the benefit of arrears of pay which are due to the applicant, therefore, the contention of the learned

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counsel for the respondents is not tenable and is rejected.

8. For the reasons recorded above and also in view  
and Hon'ble Supreme Court,  
of the legal position settled by the Hon'ble High Court,  
we allow this OA and direct the respondents to grant him  
arrears of pay for the post of Chargeman Gr.I from due  
date i.e. 1.11.91 within a period of 4 months from the  
date of receipt of copy of this order. No costs.

(Madan Mohan)  
Judicial Member

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

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