

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 799 of 2002

Bilaspur, this the 9th day of July, 2004

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

Pooran Lal Patel
aged 59 years
Son of Jamuna Prasad Patel
resident of near Saraswati Vidya
Mandir, Bhuteshwar Road, Sagar
District Sagar(M.P.)

APPLICANT

(By Advocate - Shri Ashok Pali on behalf of
Shri S.K. Gangele)

VERSUS

1. Union of India
through Ministry of Railways
Rail Bhawan, New Delhi.
2. The Divisional Railway Manager,
Central Railway, Jabalpur
District Jabalpur(M.P.)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R

By M.P. Singh, Vice Chairman -

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

"(i) direct the respondents to fix the
pay of the applicant in the initial pay of Rs.6025/-
from the date of his promotion on the post of
senior Goods Driver and consequently his pension
be also fixed in the initial pay of Rs.6550.


(ii) to direct the respondents to pay arrears
of salary and pension to the applicant with 12
percent interest and the leave encashment according
to his entitlement".

2. The brief facts of the case are that the applicant
who was working as Goods Driver in the Central Railway was
promoted as Senior Goods Driver in the pay scale of
Rs.5500-9000 vide order dated 11.1.1999 (Annexure-A-1). In
pursuance of the said order, the applicant's pay was fixed
in the said scale of pay of Rs.5500-9000. His pay was fixed
at the stage of Rs.6025/- in the grade of Senior Goods
Driver. It is alleged by the applicant that subsequently
his pay was reduced by Rs.175/-. The applicant made
representation against that reduction. According to the
applicant, he retired from service w.e.f. 11.3.2002. At

the time of his retirement, his pay was fixed at Rs.6375/- although he was entitled for fixing of his pay at Rs.6550/-.

2.1 The applicant has also submitted that at the time of his retirement he was entitled for encashment of 295 days earned leave but only 225 days leave encashment was allowed to him. Hence he has filed this OA.

3. The respondents in their reply have submitted that the applicant was initially appointed as Khalasi Cleaner on 22.3.1964. Thereafter, he was promoted to Group-C post as Fireman in the pay scale of Rs.210-270 on 3.10.1985 and further promoted as Diesel Assistant in the grade of Rs.950-1500 on 22.6.1988. Thereafter, he was again promoted as Sr.Goods Driver in the pay scale of Rs.5500-9000 on 11.1.1999. On promotion as Sr.Goods Driver his pay was fixed at the stage of Rs.5850/- vide order dated 11.2.1999 (Annexure-R-1), in the pay scale of Rs.5500-9000 after giving him the benefit of FR 22-C (corresponding provision in the IREM). His next date of increment in his old post was 1.3.1999. He could have exercised his option to get his pay fixed in the grade of Sr.Goods Driver under FR 22-C from the date of his next increment in the old post, i.e. 1.3.99. But he did not do so within the stipulated time despite the fact that the respondents had given him an opportunity to do so. However, while preparing the pay bill, the dealing clerk made a mistake by showing his pay as Rs.6025/- under the presumption that applicant had exercised his option to get his pay fixed under FR-22-C from the date of next increment in the old post. The payment was also made to the applicant accordingly. However, subsequently, the mistake was noticed and it was found that due to clerical mistake, the pay of the applicant has been wrongly shown in pay slip, although the pay was correctly fixed at Rs.5850/- on 11.1.1999 and an entry to this effect was also made in his service book.



3.1 As regards the claim of the applicant for encashment of earned leave, the respondents have stated that the actual number of days in the leave account shows that the applicant had only 225 days of leave to his credit.

4. Heard the learned counsel of parties.

5. The learned counsel of the applicant has stated that on promotion to the post of Sr.Goods Driver, the applicant's pay was correctly fixed at Rs.6025/-.

6. We have given careful consideration to the rival contentions. We find that the applicant was promoted as ^{per} Sr.Goods Driver from 11.1.1999. As the promotion order, 1999 the applicant was asked to submit his option for fixation of his pay in the promotion grade within one month from the date of his promotion as required under the Railway Board's letter dated 13.11.1981. This endorsement was incorporated in the promotion order itself. It is not in dispute that the applicant did not exercise his option within one month. The ^{therefore} pay of the applicant was fixed in the grade of Sr.Goods Driver i.e. Rs.5500-9000 w.e.f. 11.1.1999 itself under FR 22-C.

7. The learned counsel for the respondents has produced the service book of the applicant. We have seen that there is no mistake in fixing the pay of the applicant in the higher grade of Rs.5500-9000 with effect from 11.1.1999, by allowing him the benefit of FR 22-C. The pay of the applicant has been fixed as per rules. An entry to that effect has been made in the service book itself. However, due to the mistake of the dealing clerk, the applicant was allowed one extra increment of Rs.175/-, thus bringing his pay to Rs.6025/- instead of Rs.5850/-. This mistake was detected later on and corrected. We, therefore, do not find any illegality or mistake in the said fixation and correcting the clerical mistake as and when detected.



8. We have also perused the leave records of the applicant. We find that 251 days of earned leave was accumulated to the credit of the applicant on the date of his retirement i.e. 11.3.2002 i.e. the date of effect of voluntary retirement of the applicant. The learned counsel for the respondents has made a statement across the Board that the leave encashment of 251 days has already been paid to the applicant. Therefore, there remains nothing to be adjudicated by us.

9. In view of the aforesaid, the OA is without any merit and is accordingly dismissed. However, in case the amount of leave encashment of 251 days has not already been paid to the applicant, the respondents are directed to make the payment of the same within a period of two months from the date of communication of this order. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

पृष्ठानुसार से ओ/ज्या.....जबलपुर, दि.....
प्रतिनिधि अर्थात् निम्न:-

- (1) सचिव, उच्च न्यायालय वार एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के कानून SK Gangale
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के कानून MN Banerjee
- (4) वंशपत्न, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु 19-7-04
उप रजिस्ट्रार

Issued
on 20.7.04
BS