

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, INDORE

O.A. No. 687/1997

Tuesday, this the 18th day of February, 2003

Hon'ble Shri Justice N. N. Singh, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Indra Singh s/o Shri Ganesh Ram
Resident of Satyanarayan
Mandir, Yadav Mohalla, Mhow

(By Advocate: Shri T.S.Bhatia)

Applicant

Versus

1. Divisional Rail Manager
2. General Manager, Western Railways
*Church Gate, Mumbai
3. Union of India
through Ministry of Railways, New Delhi

(By Advocates: Shri Y.I. Mehta, Senior Advocate with Shri H.Y. Mehta) ..Respondents

ORDER (ORAL)

Shri Govindan S. Tampi:

Reliefs sought for in this OA are as follows:-

"a) Cancellation of entries of the pay scale fixed in the service book of the petitioner Annexure A.2 be declared null and void, illegal and non-est.

b) Petitioner's fixation of pay be ordered in accordance of principle of stepping up and in accordance with circular of Respondent(Ann.A) over and above persons mentioned in para 4 (d) who were junior to the petitioner.

- c) That in consequence of above relief, petitioner be awarded arrears of pay and allowances resultant of such fixation.
- d) Petitioner's pension be refixed and adjusted in consequence of above relief and petitioner be paid the awarded arrears of the pension as refixed.
- e) Petitioner be awarded interest at the rate of 12 per cent per month on the arrears mentioned in above sub paras.
- f) Cost of this petition Rs.2000/- be awarded to petitioner."

2. Heard Shri T.S. Bhatia, learned counsel for the applicant and Shri Y. I. Mehta, Senior Advocate with Shri H.Y. Mehta, learned counsel for the respondents.

3. The pay of the applicant, who was working as Driver A Grade, was fixed at Rs.610/- in the scale of Rs.550-700/- on 29.8.1983, w.e.f. 1.6.1981, with further annual increases as Rs.639/- on 1.6.1982, Rs.650/- on 1.6.1983, Rs.675/- on 1.12.1984 and Rs.700/- on 1.8.1985. Following his upgradation to the post of Driver as Grade A Special, his pay was fixed at Rs.700/- w.e.f. 1.1.1984, Rs.725/- on 1.1.1985 and Rs.750/- on 1.6.1986. The necessary entries were made in the service book. After the acceptance of the recommendations of the 4th Pay Commission, his pay was originally fixed at Rs.2600/- in the pay scale of Rs.1640-2900/- w.e.f. 1.1.1987, on his crossing the EB. Thereafter, without issuing any notice, the above pay fixed was sought to be brought down to Rs.2630/- w.e.f. 1.1.1987. This was incorrect and improper. Further, some of the juniors, like Pannalal Parmanand, Shankerlal Bansilal, Komalsingh Babusingh, Dina Bhai Manabhai, who were placed at No.19, 20, 21 and 23 in the seniority list, as against the applicant placed at Sl.No.17, were given higher fixation of pay. The applicant's letter

dated 3.9.1992 and his repeated representations did not evoke any favourable result but only promises that the same will be looked into, forcing him to come before the Tribunal seeking justice. All the above points were forcefully reiterated by Shri T.S. Bhatia, who appeared before us, during the oral submissions.

4. In the reply filed on behalf of the respondents, duly reiterated by Shri Y.I. Mehta, learned Senior Advocate, it was indicated that the application was hit by limitation as it has been filed in 1997 long after his retirement in 1992 and that too with regard to claims of relief of 1980s. The respondents state that as certain mistakes had arisen in the fixation of his pay, following the adoption of the recommendations of the 4th Pay Commission, which called for correction and the same were within their rights and prerogative. They point out that originally his pay was fixed at Rs.2600/- in the scale of Rs.1640-2900/- but the same had to be reworked at Rs.2300/- w.e.f. 1.1.1986 and Rs.2360/- from 1.1.1987. His claim that his juniors were being paid higher amounts was not correct, as the individuals concerned were in fact senior to him. The respondents had wrongly placed the applicant in the replacement scale of Rs.1640-2900/- earlier, while the correct replacement scale should have been Rs.1600-2660/-. Only on realising the mistake and rectifying the same with reference to his placement in the proper scale, the new fixation has been ordered and the same did not cause any loss to him. The OA, therefore, should fail, is what they plea.

5. We have carefully considered the matter. The preliminary objection of limitation raised by the respondents is of no avail to them, as what is being asked by the applicant is his re-fixation of pay in the proper manner and the same is the continuous cause of action and is, therefore, protected by the judgement of the Hon'ble Supreme Court in the case of M.R.Gupta Versus Union of India & Ors. Coming to the merits of the case, we are convinced that the applicant has a genuine grievance. In terms of the seniority list of the Drivers dated 14.12.1990, the applicant (Indra Singh) is found to be placed at Sl.No.17 and is shown as having become a Driver A Grade w.e.f. 1.6.1981 while Pannalal Parmanand at Sl.16, Shankerlal Bansilal at Sl.No.20, Komalsingh Babusingh Sl.No.21 and Dina Bhai Manabhai at Sl.No.22 have all been working in this capacity from 1.1.1982, i.e., one year after the applicant occupied. He had become Driver Grade A Special in the grade of Rs.550-700/- from 1.1.1984, therefore, when the recommendations of the 4th Pay Commission were accepted, he came to be placed on the grade of 1640-2900/- correctly. The pay fixation should have been made in accordance with the same scale, keeping in mind the pay he was drawing in the pre-revised scale. There was no ground for him to be denied the above, especially as his juniors have been given the higher scale and the benefit of higher pay. The applicant would be entitled the proper stepping up of pay in the pay scale of Rs.1640-2900/- from 1.1.1986 onwards with consequential benefits.

6. In the above circumstances, the OA succeeds and is accordingly allowed. The respondents are directed to ensure that the pay of the applicant

is fixed in the replacement scale of Rs.1640-2900/- w.e.f. 1986, keeping in mind his date of promotion to the grade of Driver Grade A Special as well as pay granted to his juniors, with full consequential benefits, including pensionary benefits. No costs.

Govindan S. Tampi
M (A)
/sunil/

N. N. Singh
(N. N. Singh)
VC (J)