

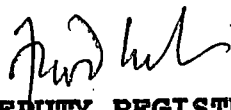
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OA No.230/2005 with MA No.174/2005

15.05.2007.

None is present for the parties.

This case has been listed before the Deputy Registrar due to non availability of Division Bench. Be listed before the Hon'ble Division Bench on 31.07.2007.

  
DEPUTY REGISTRAR

P.C./

31.07.2007

OA 230/2005 a/w MA 174/2005

Present : Mr. N.K.Gautam, counsel for the applicant.  
None for the respondents.

This case has been listed before the Deputy Registrar due to non-availability of the Division Bench. Be listed before the Hon'ble Bench on 18.09.2007.

  
(GURMIT SINGH)  
DEPUTY REGISTRAR

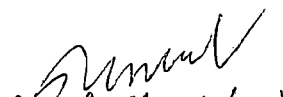
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18/9/07

Mr. N.K. Gautam, Counsel for applicant.  
Mr. R.G. Gupta, Counsel for respondents.

Heard the learned counsel for the parties.

For the reasons dictated separately, the OA stands disposed of.

  
(J.S. Shukla)  
M(A)

  
(M.L. Chakran)  
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 18th day of September, 2007

ORIGINAL APPLICATION No.230/2005  
With MA No.174/2005

CORAM:

HON'BLE MR.M.L.CHÁUHAN, JUDICIAL MEMBER  
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

Krishna Rao  
s/o Shri Jodha Rao,  
Rtd. Senior Clerk,  
Loco Foreman Office,  
Abu Road, residing at  
c/o Shri Rajender Kumar Thomra,  
Kailash Bhawan, Topdara,  
Ajmer.

.. Applicant

(By Advocate: Mr. N.K.Gautam)

Versus

1. Union of India  
through General Manager,  
North Western Railway,  
Jaipur
2. Divisional Railway Manager,  
North-Western Railway,  
Ajmer.

.. Respondents

(By Advocate: Mr. R.G.Gupta, ACGSC)

O R D E R (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- a) last pay of the applicant as on 31/3/1996 is to be notified as Rs. 1680/- and Rs. 5100/- under 5<sup>th</sup> Pay Commission.
- b) difference of retiral dues amount after recalculation be arranged and paid to the applicant.
- c) fixation of the pension of the applicant as Rs. 2550/- w.e.f. 1/4/1996 may be done and arrear amount of pension may be arranged to him.
- d) interest on the amount of gratuity delayedly arranged to the applicant may be paid @ 15 % p.a.
- e) compensation for the amount of applicant detained by respondents illegally be awarded to the applicant.
- f) cost of application may be awarded to the applicant.
- g) any other relief, as reasonable and just in the facts and circumstances may be awarded to the applicant.

2. Briefly stated, facts of the case are that the applicant was initially appointed in railway service on 17<sup>th</sup> August, 1957 and he retired on superannuation on 31<sup>st</sup> March, 1996. The grievance of the applicant is that till February, 1996 he was paid emoluments on the basic pay of Rs. 1680/- whereas on the date of retirement his pay was fixed at Rs. 1560/- and he was given the retiral benefit on this pay. The applicant has further stated that he made a representation against reduction of his pay on 26.06.2000 followed by another representation dated 7.11.2002 to revise his pay w.e.f. 21.8.1972. However, his representation was

rejected on 29.4.2004. It is on the basis of these facts that the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. Respondents have filed reply. The stand taken by the respondents in the reply is that pay of the applicant was wrongly fixed in the higher pay scale which was subsequently rectified. As such, the applicant is not entitled to higher pay fixation as he has wrongly drawn higher pay. It is further stated that the matter before the Pension Adalat has been discussed to the satisfaction of the applicant that his pay was correctly fixed and the applicant has got all benefits on correct pay fixation. As such the applicant is not entitled to any relief.

4. When the matter was listed for hearing on 10.11.2006, this Tribunal passed the following order:-

"Heard. The applicant has filed this OA seeking relief of his retiral dues amount after recalculation. His allegations are that he retired on 31.3.1996 and in the month of Feb 1996 he was paid salary @ Rs. 1680/- per month and after coming into the course of 5<sup>th</sup> Pay Commission his pay was fixed as Rs. 5000/- in the pay scale of Rs. 4500-7000. However, the respondents have reduced the salary of the applicant by the month of March 1996 itself to Rs. 1560/-. There is a difference of Rs. 120/-. The perusal of the entire reply shows that the applicant had been paid higher amount because of wrong fixation of higher pay but no reason has been explained as to how his pay had been fixed wrongly and why the same is required to be reduced. The respondents are directed to file an additional affidavit thereby clarifying the same. Let the matter be listed on 14.12.2006. CC be made available to both the parties."

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Pursuant to the aforesaid direction given by this Tribunal, the respondents have filed additional reply thereby giving reasons for reducing salary of the applicant from Rs. 1680/- to Rs. 1600/- (not Rs.1560/- as alleged) in the pay scale of Rs. 1200-2040. At this stage, it will be useful to quote Para 2 and 3 of the additional affidavit, which thus reads:-

"2. That when the applicant was working as clerk in scale Rs. 260-400 prior 1.1.1986 his pay was Rs. 372/-. The pay of Rs. 372/- has been equivalent to Rs. 1275/- in pay scale of Rs. 950-1500 on 1.1.1986 under IV pay commission.

3. That the increment date of the applicant was due on 1-8-1986, hence the pay of the applicant should be fixed from Rs. 1275/- to 1300 on 1.8.1986 but his pay was wrongly fixed at Rs. 1325/- on 1.8.1986. Therefore, it is clear that the error for wrong fixing of pay of the applicant was started and accordingly his pay had been fixed wrongly onward but this irregularity for fixation of pay of the applicant has been examined and his pay was refixed correctly from Rs. 1680/- to pay Rs. 1600/- vide ann.A/3. The details of refixation of pay of the applicant are as under:-

Pay scale	Wrongly and	Draw pay increment	Correctly pay and	Fixed the increment
950-1500	1.1.86	1300/-	1.1.86	1275/-
	1.8.86	1325/-	1.8.86	1300/-
1200-2040	1.7.87	1380/-	24.4.87	1350/-
	1.10.87	1410/-	1.4.88	1380/-
	1.7.88	1440/-	1.4.89	1410/-
	1.7.89	1470/-	1.4.90	1440/-
	1.7.90	1500/-	1.4.91	1470/-
	1.7.91	1530/-	1.4.92	1500/-
	1.7.92	1560/-	1.4.93	1530/-
	1.7.93	1600/-	1.4.94	1560/-
	1.7.94	1640/-	1.4.95	1600/-
	1.7.95	1680/-	1.1.96	5000/-
	1.1.96	5000/-	1.1.96	5000/-

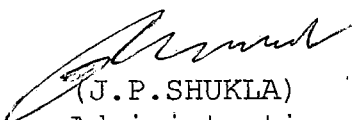
Thus, from the material placed on record, it is evident that pay of the applicant has been wrongly fixed in the pay scale of Rs. 1200-2040 which has

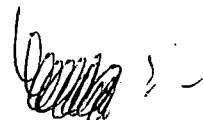
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resulted into refixation of pay of the applicant from Rs. 1680/- to Rs. 1600/-. It is also evident that on 1.9.96 when the Fifth Pay commissions was introduced, pay of Rs. 1600/- in the revised pay scale of Rs. 4500-7000 comes to be Rs. 5000/-. It is on the basis of this revised pay of Rs. 5000/- the retiral benefits of the applicant has been calculated and paid to the applicant including DCRG. It is also clear from the additional affidavit that pension has also been revised w.e.f. 1.4.1996 on the pay of Rs. 5000/- from the pension of Rs. 2408/- + DA to pension of Rs. 2554/- + DA. Thus, the applicant is receiving pension of Rs. 2554/- + DA w.e.f. 1.4.96 on the pay of Rs. 5000/-.

5. In view of what has been stated above, we are of the view that there is no merit in the OA filed by the applicant. Accordingly, the same is dismissed with no order as to costs.

6. Since we have dismissed the OA on merit as such no order is required to be passed on MA No.174/2005 i.e. application for condonation of delay and the same shall stand disposed of accordingly.

  
(J.P.SHUKLA)  
Administrative Member

  
(M.L.CHAUHAN)  
Judicial Member

R/