

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 7<sup>th</sup> day of April, 2011

**Original Application No.269/2007**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**  
**HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Heera Lal  
s/o Shri Moola,  
presently working as Chainman,  
Inspection Works,  
Bayana, Distt. Bharatpur.

.. Applicant

(By Advocate: Ms. Kavita Bhati )

Versus

1. Union of India  
through its Secretary,  
Ministry of Railways,  
Rail Bhawan,  
New Delhi.
2. The Divisional Railway Manager,  
Western Central Railway, Kota
3. The Senior Divisional Railway Engineer,  
(Coordination),  
Western Central Railway,  
Kota Division, Kota.
4. Senior Administrative Officer,  
Western Central Railway,  
Hindoun City, Hindoun.
5. Senior Chief Permanent Way Inspector,  
Western Central Railway,  
Hindoun City, Hindoun.



.. Respondents

(By Advocate: Shri B.K.Pareek proxy counsel for Shri Tej Prakash Sharma Sharma)

ORDER (ORAL)

Brief facts of the case are that the applicant was appointed as Gateman in the respondent department on 26.3.1983 and promoted to the post of Gangman. He was further promoted from Gangman to Senior Gangman and awarded the pay scale of Rs. 800-1150 and his pay was fixed at Rs. 890/- p.m. Regular increments were also awarded to the applicant as per provisions of law.

The applicant was transferred from P.W.-I Kota to P.W.-I Hindoun City on his request and he joined the new place of posting on 2.4.1992, but the respondents did not send the service record of the applicant from Kota to Hindoun City, therefore, the office started to pay salary @ Rs. 871/- as basic pay to the applicant at his new place of posting. To this effect the applicant represented and submitted a number of applications to the higher authorities about non-sending of his service record at his new place of posting by the authorities of respondents who were posted at Kota. The concerned officials became annoyed with the applicant and after lowering of his basic pay sent the service record on 30.3.1993 and his basic pay was fixed as Rs. 927/-.

The applicant was medically examined by the medical authorities at Jabalpur and on the basis of report of the medical authorities, he was de-categorized from A-3 to C-1 category



(without glasses) vide order dated 25.11.2004. The applicant submitted representation for allotment of light work in response to his de-categorization, but request of the applicant was not accepted and despite accepting request of the applicant the respondents initiated inquiry against the applicant and after conducting enquiry the applicant was punished vide order dated 10.2.2007 (Ann.A/1) by awarding punishment of stoppage of two grade increment without cumulative effect.

2. We have considered the rival submissions of the respective parties and bare perusal of the memorandum of charges leveled against the applicant through memorandum dated 14.7.2006 (Ann.A/12) reveals that enquiry was initiated against the applicant because he represented before the authorities regarding reduction of his pay and made representation with a view of harass the higher authorities.

3. The respondents failed to point out as to how one can be prevented to redress his grievances by way of making representation if his pay is reduced, but no satisfactory answer is given.

4. On the contrary, the learned counsel appearing for the applicant referred to the judgment rendered by this Tribunal in OA No.140/2006, Dhanji Lal Meena vs. UOI and Ors., decided on 15.11.2010 wherein this Tribunal has dealt with the similar issue that pay should be protected at the stage equal to the stage of pay drawn by him in the higher grade and the case of the applicant was required to be considered in the light of RBE No.60/2007 issued

14

by the Railway Board whereby the Railway Board has clarified the decision regarding fixation of pay on transfer to lower post on his own request. The Railway Board has taken decision that matter is required to be dealt with in the light of the Department of Personnel and Training OM dated 14.2.2006 and having considered the OM dated 14.2.2006 which deals with protection of pay in case an employee seeks transfer to lower post under FR 15 observed that in view of the clarification issued by the Department of Personnel and Training, this clarification has also been adopted by the Railway Board, and pay of the applicant is required to be fixed at the stage equal to the pay drawn by him in the higher grade. If no such stage is available the pay will be fixed at the stage next below the pay drawn by him in the higher post and the difference may be granted as personal pay to be absorbed in future increments, but certainly his pay was not required to be fixed as if he was never promoted to the higher post, as was done in the instant case.

5. Since the controversy has already been settled by this Tribunal in the case of Dhanji Lal Meena (*supra*) and in the instant case also similar issue is involved. As the applicant has prayed for fixing his pay but without considering representation filed by the applicant and without considering the fact that the applicant was working in the higher grade and transfer was made on his own request, the applicant's case was required to be considered in the light of the RBE No.60/2007 issued by the Railway Board and in the light of DOPT OM dated 14.2.2006 as discussed hereinabove, which



deals with fixation of pay in case employee seeks transfer to lower post under FR 15-A.

6. Accordingly, the present OA deserves to be allowed as the impugned order dated 10.2.2007 (Ann.A/1) by which penalty of stoppage of two grade increments without cumulative effect has been imposed on the applicant merely on the ground that the applicant represented before the higher authorities to just harass them and on bare perusal of charges leveled against the applicant vide memorandum dated 14.7.2006, it appears that the charges framed against the applicant is to achieve ulterior motives whereas the applicant is having every right to represent and redress his grievance before the higher authorities. The action of the authorities is not only discouraging such employees who are vigilant about their rights but also arbitrary action against the applicant. Therefore, impugned order dated 10.2.2007 (Ann.A/1) is hereby quashed and set aside and respondents are directed to fix pay of the applicant on account of his transfer to lower post on his own request in terms of RBE No.60/2007 within a period of three months from the date of receipt of a copy of this order.

7. The OA stands allowed in the aforesaid terms with no order as to costs.

*Anil Kumar*

(ANIL KUMAR)  
Admv. Member

*J. S. Rathore*

(JUSTICE K.S.RATHORE)  
Judl. Member

R/