

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO. 060/00859/2014 Date of order:- 23.12.2015.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mr. Uday Kumar Varma, Member (A).

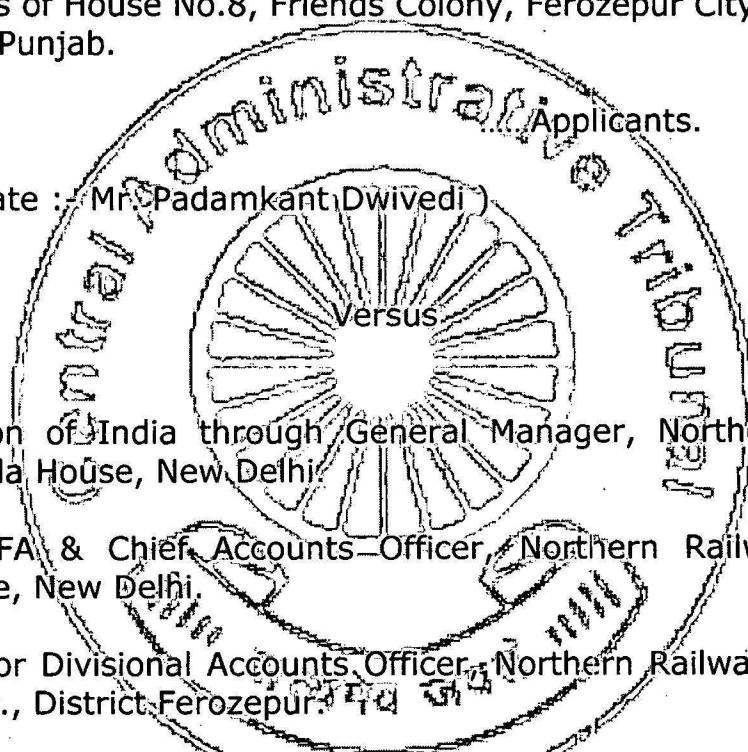
Jarnail Singh Sidhu, Ex.S.S.O. (AC) since deceased through his legal representatives namely

- (a) Harbans Kaur widow of Jarnail Singh Sidhu
- (b) Gurmeet Singh son of late Sh. Jarnail Singh Sidhu
- (c) Inderjit Singh Sidhu son of late Sh. Jarnail Singh Sidhu

All residents of House No.8, Friends Colony, Ferozepur City, District Ferozepur, Punjab.

Administrative Tribunal
Applicants.

(By Advocate : Mr. Padamkant Dwivedi)



1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi
2. The FAO & Chief Accounts Officer, Northern Railway, Baroda House, New Delhi
3. Senior Divisional Accounts Officer, Northern Railway, Ferozepur Cantt., District Ferozepur
4. Upinder Kaur wife of late Sh. Par Upkar Singh and daughter of late Sh. Jarnail Singh Sidhu, Ex. S.S.O. (AC) and resident of H.No.30, Dashmesh Nagar, Baghi Road, Adjacent Anand Marriage Palace, Ferozepur City, District Ferozepur.

...Respondents

(By Advocate : Mr. Yogesh Putney, for respondents no.1 to 3
Mr. Akshit Chaudhary, for respondent no.4).

ORDER

Hon'ble Mr. Uday Kumar Varma, Member (A):

Key

Applicant has filed the present Original Application for issuance of a direction to the respondents to release the benefit of fixation of pay under FR 22-C w.e.f. 1.4.1987 in terms of Railway Board letter dated 20.9.1988 and Dy. CAO (C) letter dated 6.9.1990 as all the staff who were holding the pre-revised non-functional selection grade of Rs.775-1000 ~~and~~ ^{to} were placed in the corresponding revised pay scale of Rs.2000-3200 prior to 31.3.1987 and his salary/pension be also re-fixed with all consequential benefits.

2. Facts as presented by the applicant are that he retired from the post of S.S.O(Accounts) on 30.11.1987. The applicant has stated that in terms of Railway Board letter dated 20.9.1988 and letter dated 6.9.1990 issued by the Dy. CAO (C), the staff who were holding the pre-revised non-functional selection grade of Rs.775-1000 and were placed in the corresponding revised pay-scale of Rs.2000-3200 prior to 31.3.1987 were to be given the benefit of fixation of pay under FR 22-C with effect from 1.4.1987, but while preparing the said list, the name of the applicant was not included to malafide and arbitrary reasons. The applicant personally visited the office of respondent no.2 on 19.6.2001 and apprised the FA&CAO. The applicant had also made representation to the respondents. However, the respondents did not pay any heed to his prayers. During the pendency of the OA, the applicant Jarnail Singh Sidhu died on 24.9.2014 and his LRs have been impleaded as applicants.

3. Pursuant to notice, the respondents no.1 to 3 have contested the claim of the applicant by filing written statement. They have stated that the present OA is barred by the law of limitation.

They have further stated that the applicant wants double benefit for

fixation of pay as his pay was fixed in the functional grade of Rs.2000-3200 with effect from 1.1.1986 on personal basis and this is neither disclosed nor disputed and again with re-fixation from 1.4.1987 in the same pay scale of Rs.2000-3200. It is settled that benefit of higher pay scale is to be granted only once. Once the pay scale of promotional post is granted to an employee while working on the lower post, he is not entitled to any additional benefit on his actual promotion to the higher cadre. They cannot get another fixation of pay which would amount to double benefit. They have also placed reliance on a judgment passed by the Hon'ble Apex Court in the case of **State of Haryana vs. Partap Singh** (2006(4) S.C.T. Page 443(SC). They have thus prayed dismissal of the OA.

4. No reply has been filed on behalf of respondent no.4.
5. We have given our thoughtful consideration to the entire matter and perused the pleadings available on record with the able assistance of the learned counsel for the parties.
6. The claim of the applicant is rooted in the plea that the respondents had in their communication dated September 6, 1990 omitted to include his name that entitled him to get the benefit of fixation of pay under FR 22 (C) with effect from 1.4.1987. His further contention is that his plea is corroborated by letter at Annexure A-2 issued from the office of Senior Divisional Accounts Officer, Northern Railway, Ferozepur, which mentions that the applicant's name was omitted to be included in the said list and that he is also due for the benefit of pay under Rule 22 (C) with effect from 1.4.1987.

7. The respondents, however, rest their case entirely on communication dated 14.8.1989 issued by the Railway Board. It will be useful to quote this communication in full:-

"Subject: Fixation of pay persons holding pre-revised non-functional selection grade to revised pay scale on personal scale.

Reference: Board's letter of even number dated 20.09.1988 (RBE 216/1988).

On the basis of the recommendation of the IV Pay Commission, the scale of Rs.2000-3200 has been introduced in the Organised Accounts cadres with effect from 01.01.1986. However, the Commission had left the question of determination of number of posts to be placed in the higher functional scale to be decided by the Government. Naturally when functional scale is introduced, appointments have to be based on normal promotion procedure. Pending the decision regarding number of posts to be placed in the functional scales and promotional criteria to be adopted, the incumbents in the pre-revised scale of Rs.775-1000 were placed in the corresponding revised scale of Rs.2000-3200 with effect from 01.01.1986 on personal basis. *As such, they are not entitled to the benefit of FR 22 (C)/1316-R.II when appointed in a scale on personal basis and they pay in revised scales, like all other cases, is fixed under Rule 7 of Railway Services (Revised Pay) Rules, 1986.* The number of posts in the higher scale of Rs.2000-3200 and promotional criteria to be adopted was decided during 1987, and accordingly the appointment on functional basis are effective from 1987, and accordingly the appointment on functional basis are effective from 01.04.1987. On appointment on functional basis, these employees become entitled to benefit of FR 22 (C)/1316-R.II. *As regards persons who were in the pre-revised scale of Rs.775-1000 and were placed in the revised scale of Rs.2000-3200 on personal basis, there is no question of application of FR 22 (C)/1316-R.II, as there is no appointment on functional basis in such cases, involving promotion as per normal procedure.*

2. On certain Railways fixation of pay under FR 22 (C) has been given from 01.01.1986 where fixation has been given from 01.01.1986 under FR 22 (C) necessary action should be taken to re-fix the pay of concerned staff correctly. Over payments involved in such cases may be worked out and necessary recovery made for the period from 01.01.1986 to 31.03.1987".

(emphasis supplied)

The respondents have very emphatically argued that his name was not to be included in the list of September 6, 1990 because he was already getting the pay-scale of Rs.2000-3200 since 1.1.1986 on

personal basis and, therefore, the question of again fixing his pay under FR 22 (BC) with effect from 1.4.1987 did not arise.

8. We find merit in respondent's contention. The emphasized part of the above mentioned circular makes it abundantly clear that the applicant was already in the pay-scale of Rs.2000-3200 with effect from 1.1.1986, though in personal capacity and, therefore, there was no justification for again fixing his pay in the same scale from 1.4.1987.

9. As regards the contention of the applicant that his case of omission in the list of September 6, 1990 was corroborated by the Senior Divisional Accounts Officer, communication dated 16.8.2001, we find that the said office was obviously not aware of the fact that the applicant was already drawing revised pay-scale from 1.1.1996 in his personal capacity and, therefore, this letter cannot be held as a document that in any way negates the contentions made by the respondents. On enquiry, the applicant also admitted that he was already getting the pay scale of Rs.2000-3200 from 1.1.1986 as a personal pay.

10. Accordingly, we have no hesitation to conclude that this OA is clearly devoid of any substance or merit. It does not deserve any interference from us. OA is thus dismissed with no cost to either parties.

**(UDAY KUMAR VARMA)
MEMBER (A).**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:- 23. 12. 2015.

Kks