

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

a

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 210 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

.....R.K. Dey..... APPLICANT(S)

-VS-

.....M.O.I. Govt..... RESPONDENT(S)

For the Applicant(s)

... Mr.

Mr.

Mr.

Mr.

Mr.

For the Respondent(s)

Mr.

B.K. Sharma

Rly. Advocate

OFFICE NOTE

DATE

ORDER

22.9.95

Learned counsel Mr R.Dutta moves this application on behalf of the applicant. None is present for the respondents.

The subject matter is stepping up of pay. Perused the application and the reliefs sought by the applicant.

Application is admitted. Issue notice on the respondents by Registered Post. Written statement within 10.11.95.

List on 10.11.95 for written statement and further orders.

Member

This application is in form and within time.

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 514765

Dated 19.9.95

22/9/95

Requisits are read

2 issued v.m. 4462-66 pg

17.10.95

4/4

Notice served on R. no. 1, 2, 3 & 5 vide C.F. 2 209/95

OFFICE NOTE

DATE

ORDER

10.11.95

Written statement has not been submitted. Learned Railway counsel Mr B.K.Sharma seeks for further four weeks time to submit written statement. List on 15.12.95 for written statement and further orders.

Member

pg

15.12.95

Mr R.Dutta/Mr B.K.Sharma. Counter has not been submitted. Adjourned to 2.2.1996 for counter and further orders.

Member

pg

1-3-96

Learned counsel Mr.R.Dutta for the applicant is present. Mr.S. Sharma for Railway counsel seeks for further adjournment. Hearing adjourned to 19-4-96. Respondents may submit written statement in the meantime with copy to the counsel of the applicant.

Member

In 19.4.96

None is present for the respondents. Leave out of Mr.R.Dutta learned counsel for the applicant. Hearing adjourned to 15-5-96. In the meantime respondents may submit written statement with copy to the applicant.

Member

In

Counter has not been
bwn

19/11

29.1.96

for leaving
on 1.3.96

Bider
box

Counter has not been
filed

19/11

(3)
O.A.No.210/95

3
15-5-96

Learned counsel Mr.R. Dutta for the applicant. Learned counsel Mr.B.K.Sharma for the respondents.

Written statement has not ~~been~~ submitted. Mr.Sharma seeks for time to file written statement.

List for hearing on 19-6-96. In the meantime respondents may submit written statement with copy to the applicant.

lm

6p
Member.

4

OFFICE NOT

DATE

ORDER

19.6.96

Mr R. Dutta for the applicant. Mr B. K. Sharma for the respondents.

Written statement has not been submitted.
List for hearing on 7.8.96.

Liberty to the respondents to submit written statement with copy to the counsel for the applicant.

Member

nk m

7-8-96

Learned counsel Mr.R.Dutta for the applicant. Learned counsel Mr.S.Sarma for Mr.B.K. Sharma Railway counsel. This case has been listed for hearing pending submission of written statement. Mr.S.Sarma informs that written statement are in a stage of readiness for submission and he seeks adjournment for submission of written statement.

List for hearing on 26-8-96.

The respondents are directed to submit the written statement before the date with copy to the counsel of applicant.

Member

lm

26.8.96

Mr. R.Dutta for the applicant.

Mr. B.K.Sharma has submitted leave of absence.

Written statement has not been submitted.

List for hearing on 16.9.96.

Member

trd

W/standing has not been G.W.
28/8

D No free duty served on Respd's nos 1,2,3,5,8
28/8

23/8

Infarion
26/8

26/8

16.9.96

Learned counsel Mr. R.Dutta for the applicant.

Mr. S.Sarma for Mr. B.K.Sharma, learned counsel for the respondents, informs that written statement is ready and will be submitted in about one week time. He therefore prays for short adjournment.

Hearing adjourned to 3.10.1996. In the meantime the respondents may submit written statement with copy to the counsel of the applicant.

W/ statement has not been filed.
8/10

trd
16/9

W/ statement has not been filed.
8/10

Member

3.10.96

Learned counsel Mr R. Dutta for the applicant. None for the respondents.

Mr Dutta is ready for submission. Mr S. Sarma for Mr B.K. Sharma, however, prays that the respondents may be given last opportunity to file written statement on 7.10.96 and adjourn the hearing. However, since Mr Dutta has come ready for his submissions and hearing, he is allowed to make his submissions in part. The hearing is adjourned to 9.10.96. In the meantime the respondents shall submit written statement with copy to the counsel of the opposite party on 7.10.96 positively.

Hearing adjourned to 9.10.96 as part heard.

W/ statement has not been filed.
8/10

trd
3/10

Member

9.10.95 Learned counsel Mr. R.Dutta for the applicant. None for the respondents. However, a common written statement for the applicants in O.A. 161/95, 175/95, 209/95 to 212/95 and O.A. 224/95 to 240/95 has been submitted by the respondents. A copy of which has been served on learned counsel Mr. R.Dutta. Mr. R.Dutta seeks time to file rejoinder. Allowed.

Mr. R.Dutta is directed to serve copy of the rejoinder on the respondents before the date of hearing.

List for hearing on 20.11.96 as part heard.

nr
9/10

62
Member

20-11-96

Learned counsel Mr.R.Dutta for the applicant. Mr.M.K.Choudhury for Mr.B.K. Sharma, learned Railway Counsel.

List for hearing on 16-12-96. as part heard.

lm
nr
20/11

62
Member

18.12.96

None present. List for hearing on 10.1.1997.

nkm
nr
19/12

62
Member

10.1.97

Learned counsel Mr R. Dutta for the applicant. Leave note of Mr B.K. Sharma, learned counsel for the respondents.

Adjourned for hearing on 24.1.97 as part heard.

Member

lm

W
10/1

29.1.97

Mr R.Dutta, learned counsel for the applicants and Mr B.K.Sharma, learned Rail-way counsel for the respondents present.

Counsel of both sides have completed their submissions. Hearing concluded. Judgment reserved.

Member

pg

W
30/1

12.2.97

O.A. dismissed vide common order in O.A. 175 of 1995.

Copy of the order be placed in the O.A.

Member

pg

18.2.97

Copy of the Judgment issued to the parties alongwith the L/Advocate vide D.M.

W

12.2.97

Mr R. Latta for the applicant. Mr B. K. Sharma for the respondents.

Judgment and order pronounced by common order in respect of the 23 Original Applications. All Original Applications except O.A.Nos.161/95, 235/95 & 238/95 are dismissed in terms of the order.

O.A.238/95, Jadu Gopal Chakraborty, is disposed of in terms of para 8 of the common order.

O.A.161/95, Dulal Kanti Deb and O.A. 235/95, Ajit Kumar Chakraborty, are disposed of in terms of para 9 of the common order. No order as to costs.

Place copy of the common order in all the 23 O.As.

Member

18.2.97

Copy of Judgment
sent to the applicant
Respondents vide

N.

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order : This the 12th Day of February, 1997.

Shri G.L. Sanglyine, Administrative Member.

Original Application No. 161 of 1995.

Shri Dulal Kanti Deb	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 175 of 1995	
Shri Chitta Ranjan Paul	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 209 of 1995	
Shri Manindra Lal Deb	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 210 of 1995	
Shri Ranjit Kumar Dey	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 211 of 1995	
Shri Krishna Pada Paul	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 212 of 1995	
Smt Kali Rani Sarkar & Ors.	
Legal heirs of late Jibon Krishna Sarkar	. . . Applicants
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 224 of 1995	
Shri Manilal Roy	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents
O.A. No. 225 of 1995	
Shri Priyotosh Naha	. . . Applicant
- Vs -	
Union of India & Ors.	. . . Respondents

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contd.....2

O.A. No. 226 of 1995
Shri Kalachand Saha . . . Applicant
- Vs -
Union of India & Ors.

O.A. No. 227 of 1995
Shri Arun Kanti Das . . . Applicant
- Vs -
Union of India & Ors. . . Respondents.

O.A. No. 228 of 1995
Shri Parimal Chandra Dey . . . Applicant
- Vs -
Union of India & Ors. . . Respondents

O.A. No. 229 of 1995
Shri Makhanlal Bakshi . . . Applicant
- Vs -
Union of India & Ors. . . Respondents.

O.A. No. 230 of 1995
Shri Mukunda Ch. Chanda . . . Applicant
- Vs -
Union of India & Ors. . . Respondents

O.A. No. 231 of 1995
Shri Kartick Chandra Dey . . . Applicant
- Vs -
Union of India & Ors. . . Respondents.

O.A. No. 232 of 1995
Shri Gopesh Chandra Dam . . . Applicant
- Vs -
Union of India & Ors. . . Respondents.

O.A. No. 233 of 1995
Shri Harendra Kumar Dey . . . Applicant
- Vs -
Union of India & Ors. . . Respondents.

O.A. No. 234 of 1995
Shri Dilip Kumar Mazumder . . . Applicant
- Vs -
Union of India & Ors. . . Respondents

O.A. No. 235 of 1995
Shri Ajit Kr. Chakraborty . . . Applicant
- Vs -
Union of India & Ors. . . Respondents.

O.A. No. 236 of 1995.
Shri Ramendra Kumar Basak
- Vs -
Union of India & Ors.

. . . Applicant
. . . Respondents

O.A. No. 237 of 1995
Shri Rai Mohan Roy
- Vs -
Union of India & Ors.

. . . Applicant
. . . Respondents

O.A. No. 238 of 1995 ✓
Shri Jadhu Gopal Chakraborty
- Vs -
Union of India & Ors.

. . . Applicant
. . . Respondents

O.A. No. 239 of 1995
Shri Rebati Mohan Choudhury
- Vs -
Union of India & Ors.

. . . Applicant
. . . Respondents.

O.A. No. 240 of 1995
Shri Fanindra Kumar Baidya
- Vs -
Union of India & Ors.

. . . Applicant
. . . Respondents.

Shri R.Dutta, Advocate for all the applicants.

Shri B.K.Sharma, Railway Advocate for all the respondents.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

The applications submitted by the 23 applicants under Section 19 of the Administrative Tribunals Act 1985 are disposed of by this common order for convenience. The respondents Railways have also submitted a common written statement in respect of all these applications.

2. The applicants were either holding the post of Fireman 'A' or Diesel Assistant Driver. They were subsequently promoted to their next promotional post of Shunter.

contd....4

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For the purpose of ready reference and easier appreciation of facts the dates of promotion of each one of them to

Shunter ~~ex Fireman~~ 'A' are given below as gathered from the respective applications under consideration :-

Sl.No.	Name of the applicant	Date of promotion
1.	Sri D.K. Deb	1.1.1986
2.	" C.R.Paul	1.3.1985
3.	" M.L.Deb	14.2.1985
4.	" R.K.Dey	11.2.1984
5.	" K.P.Paul	6.12.1985
6.	" J.K.Sarkar	7.6.1984
7.	" M.L.Roy	19.2.1985
8.	" P. Naha	1.3.1985
9.	" K. Saha	14.2.1985
10.	" A.K.Das	14.12.1985
11.	" P.C.Dey	1.6.1984
12.	" M.L.Bakshi	14.2.1985
13.	" M.C.Chanda	13.6.1984
14.	" K.C.Dey	22.1.1985
15.	" G.C.Dam	1.3.1985
16.	" H.K.Dey	14.2.1985
17.	" D.K.Mazumder	11.3.1985
18.	" A.K.Chakraborty	30.1.1986
19.	" R.K.Basak	1.3.1985
20.	" R.M.Roy	14.10.1985
21.	" J.G.Chakraborty	8.12.1985
22.	" R.M.Choudhury	31.5.1984
23.	" F.K.Baidya	25.1.1989

3. The categories of employees known as Fireman 'A' and Diesel Assistant Driver are called running staff in the Railways. The applicants belonged to these categories as the case may be. Restructuring of all running staff categories were affected with effect from 1.1.1984 on proforma fixation and the monetary benefits consequent thereto were given with effect from 1.1.1985 but the categories of Fireman 'A' and Diesel Assistant Driver were not restructured. These categories were, however, given the benefit of Special Pay at the rate

contd...5

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of Rs.15/- per month. This Special Pay was admissible to 30% of the posts in each category. This Special Pay was given in order of seniority in each category of post. The Special Pay was given with effect from 1.7.1985. This Special Pay was, however, abolished with effect from 1.1.1986 as a result of 4th Central Pay Commission but the same was allowed to be taken into account in the fixation of pay of Fireman 'A' and Diesel Assistant Driver. The grievance of the applicant is that many employees junior to the applicants as Fireman 'A' or Diesel Assistant Driver were drawing higher pay than the applicants because of fixation of pay due to merger of the Special Pay which was taken into consideration while fixing the pay of the juniors. They had made representation before the competent authorities of the respondents but their representations were rejected on the following grounds :

"If in the lower grades the junior employee drawn higher rate of pay than the senior employee due to advance increment or accelerated promotion etc., the stepping up of pay of senior employee will not be applicable."

They made further representations but no reply was given by the respondents. Hence this application.

4. The respondents have defended their case stating that the pay of Shunter/~~Fireman~~ 'A' promoted prior to 1.1.1986 were fixed at lower stages whereas the pay of those enjoying the Special Pay was fixed at higher stages on promotion as Shunter in the revised grade. Some of the applicants got their promotion to the post of Shunter/~~Fireman~~ 'A' before 1.7.1985, that is, the date of effect of Special Pay, and they did not enjoy the benefit of Special Pay as Fireman 'A' or Diesel Assistant Driver. As a result, there cannot be any question of stepping up of their pay while fixing their pay with effect

contd... 6.

from 1.1.1986 consequent to the 4th Central Pay Commission. They further state that ^{in respect of} two applicants, namely, Dulal Kanti Deb and Shri Ajit Kr. Chakraborty who were promoted after 1.1.1986 the benefit of fixation of their pay after taking into consideration of special pay of Rs.15/-per month drawn by them had already been granted. Learned counsel Mr R. Dutta appearing for the applicants submitted that the stand of the respondents in rejecting the prayer of the applicants to step up their pay is not sustainable as it is not in accordance with FR 22 C and the Notification No.PC-IV/86/RSRP/1 dated 19.9.1986 issued by the Ministry of Transport, Department of Railways(Railway Board). Mr Dutta relies on Note 7 of Rule 7 thereunder and submitted that all conditions laid down under this Note were fulfilled by the applicants and as such their prayer is justified. Mr B.K.Sharma, learned counsel for the respondents, on the other hand opposes the contention of Mr Dutta.

5. The respondents have stated in the written statement that all the applicants except Jadhu Gopal Chakraborty (O.A.No.238/95), Dulal Kanti Deb (O.A.161/95) and Sri Ajit Kr. Chakraborty (O.A.235/95) were promoted as Shunter/~~Fireman~~ 'A' before 1.7.1985. Since this is the material date it has to be mentioned here that the dates of promotion to Shunter as given by the applicants K.P.Paul as 6.12.85, A.K.Das as 14.12.1985, R.M.Roy as 14.10.85 and J.G.Chakraborty as 8.12.85 are not same with the dates given by the respondents in a sheet at Annexure V to the written statement. These above mentioned cases are specifically mentioned because it will be relevant whether they were drawing Special Pay as Diesel Assistant Driver from 1.7.1985 to

contd... 7

the alleged date of their promotion to Shunter. In the case of all other applicants except the four mentioned and above/ A.Chakraborty, D.K.Deb and F.K.Baidya their dates of promotion to Shunter were before 1.7.1985. All these applicants were not therefore enjoying Special Pay of Rs.15/- per month as Diesel Assistant Driver/Fireman 'A'. Even in the case of K.P.Paul though he states that, he was Diesel Assistant Driver on 1.7.1985 he has not stated in his application that he was drawing Special Pay after 1.7.1988. Similar is the case of Shri J.G.Chakraborty. Sri A.K.Das and R.M. Roy also have not stated that they were drawing special pay from 1.7.85 to the dates of their promotion. In the case of F.K.Baidya, the question of drawing special pay of Rs.15/- per month does not arise as according to him, due to disciplinary proceeding he was removed from service in 1981 and was reinstated on 23.2.1989 and given promotion as Shunter on 25.1.1989. He has not stated in this application that he was paid arrear of Special Pay after reinstatement. Also if the date of 26.3.1985 was the date of his promotion to Shunter as stated by the respondents in Annexure-V the question of drawing Special Pay by him as Diesel Assistant Driver after 1.7.1985 does not arise.

6. Note 7 aforesaid reads as follows:

"Note 7: In case, where a senior Railway servant promoted to a higher post before the 1st day of January, 1986 drawn less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1986, the pay of the Senior Railway servant should be stepped up to an amount equal to the pay as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Railway servant subject to fulfilment of the following conditions, namely,

contd...8

2.2.97

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- 12
- (a) both the junior and the senior Railway servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre,
 - (b) the pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical; and
 - (c) the anomaly should be directly as a result of the application of the provisions of Rule 2018B(FR22C) of Indian Railway Establishment Code Volume II or any other Rule or order regulating pay fixation on such promotion in the revised scale, If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provisions of this Note need not be invoked to step up the pay of the senior officer."

Mr Dutta submits that all the conditions mentioned above are fulfilled in his case and further that the last sentence "if even officer" does not apply to the present case of the applicants. Before proceeding further it is essential to reproduce here Rule 2018(B) of Indian Railway Establishment Code Volume II :

"2018-B (F.R. 22C)-Notwithstanding anything contained in these rules, where a railway servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities or greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued."

The subject matter in these applications is fixation of pay of the applicants ~~in the grade of Shunter~~, in view of the fact that their juniors in the grade of Diesel Assistant Driver/ Fireman 'A' were drawing higher pay than them on their (junior) promotion to the post of Shunter.

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7. As indicated above Mr Dutta has relied on Note 7 of the Notification dated 19.9.1986 submitted by the respondents with their written statement in his submission though it is seen that this Notification does not find mentioned in any of the Original Applications under consideration. The employees junior to the applicants in the grade of Diesel Assistant Driver/Fireman 'A' who drew more pay than the applicants on promotion as Shunter are the following according to Annexure-V to the written statement.

<u>Sl.No.</u>	<u>Name</u>	<u>Date of promotion to Shunter</u>
1.	Sri Santosh Rn.Sarkar	16.1.86
2.	" Gopal Ch. Dey	9.1.86
3.	" Motilal Majumder	9.1.86
4.	" N.D.Chakraborty	8.10.88

Therefore all these juniors were promoted after 1.1.1986. The Special Pay of Rs.15/- per month which they were drawing between 1.7.1985 and 31.12.1985 was abolished with effect from 1.1.1986 but this Special Pay was taken into consideration for the purpose of fixation of their pay in the revised scale of pay of Diesel Assistant Driver as a result of the 4th Pay Commission. Consequently on their promotion as Shunter after 1.1.1986 they carried with them this benefit and their pay in the scale of Shunter was accordingly fixed. According to para 5 and 6 of the written statement of the respondents and Annexure-V thereto all the applicants except Jadu Gopal Chakraborty (O.A.238/95), Dulal Kanti Deb (O.A.161/95) and Ajit Kr. Chakraborty (O.A.235/95) were promoted as Shunter before 1.7.1985 and they did not draw their special pay of Rs.15/-per month which came into effect from 1.7.1985 in the scale of pay of Diesel Assistant Driver/Firemen 'A'. No rejoinder has been submitted by any

of the applicants to these statements made by the respondents and they have not been sought to be controverted. It may also be mentioned here that although one common written statement has been submitted by the respondents in respect of the 23 applicants, the learned counsel for the applicants has chosen to proceed for hearing on the basis of this common written statement in respect of all the applications. Therefore, these statements of the respondents are taken to be correct. It is the contention of the respondents that stepping up of pay is permissible only when two persons are in the same grade, same pay scale and the anomaly arises in the same pay scale. It is seen from the facts stated above that the case of the 20 applicants who were promoted to Shunter before 1.7.1985 is not the same with that of the juniors. It is evident that the senior employees, namely the applicants, had not drawn the same pay as the juniors in the scale of pay of Diesel Assistant Driver/Fireman 'A' as the applicants were promoted before 1.7.1985 to Shunter and did not draw the Special Pay of Rs.15/-per month. These 20 applicants were not also in the same cadre of Diesel Assistant Driver/Fireman 'A' as the juniors as on and after 1.7.1985. In view of these facts there cannot be any anomaly in fixation of their pay in the scale of pay ~~in the scale of pay~~ of Shunter with reference to the pay of the juniors who were promoted after 1.1.1986 to Shunter and who stand in a different footing. In the light of the above the 20 applicants cannot succeed in their respective applications now under consideration.

8. In the case of Jadu Gopal Chakraborty (O.A.238/95) the respondents have stated in the written statement that he drew the Special Pay of Rs.15/-per month with effect from 1.7.1985 to 30.12.1985 as he was promoted to the post of Shunter on 31.12.1985. It appears that he was not allowed

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higher fixation of pay because he was promoted to Shunter on 31.12.1985. Note 7 aforesaid permits stepping up of pay of a senior employee promoted before 1.1.1986 with reference to the pay of a junior promoted on or after 1.1.1986 in the higher post subject to fulfilment of the conditions laid down thereunder. In view of this fact and the fact that Shri Chakraborty was drawing Special Pay of Rs.15/-per month till 30.12.1985, that is one day before his promotion, I consider that it will be fair to direct the respondents to re-consider his case with reference to the facts of his case and the Notification No.PC-IV/86/RSRP/1 dated 19.9.1986. They are therefore accordingly directed and they should do so on merit. They shall issue a final order within 3 months from the date of receipt of this order by respondent No.3, the Chief Personnel Officer, N.F.Railway, Maligaon, Guwahati. The application is disposed of accordingly.

9. In the case of Dulal Kanti Deb (O.A.161/95) and Ajit Kr.Chakraborty (O.A.235/95) the respondents have submitted that these 2 applicants were promoted after 1.1.1986 and their pay in the revised scale had since been refixed by taking into account Special Pay of Rs.15/-. Mr Dutta submits that the applicants had not actually received benefit of the refixation. The respondents are therefore directed to pay these 2 applicants their dues as a result of refixation of their pay within 3 months from the date of receipt of copy of this order by respondent No.3 if they had not already been paid. The O.A.Nos.161/95 & 235/95 are disposed of accordingly.

10. The Original Applications of other applicants excluding O.A.Nos.161/95, 235/95 and 238/95 are dismissed. No order as to costs.

Sd/-MEMBER (ADMN)

20 SEP 1995

Overhead Projector
Projector

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

(An application U/S 19 of the A.T.Act,1985.)

O.A No. 210 of 1995.

Shri R.K.Dey..... Applicant

VS

Union of India & others... Respondents.

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.....

21
B. Dutta, (Advocate)
Maligaon, Guwahati-781011.

Received
1.10.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

(An application under section 19 of
the Administrative Tribunal Act 1985)

Original application No. 210 of 1995.

Shri Ranjit Kumar Dey, Son of Late G. C.
Dey, resident of Qrs.No.L156 A, LOCO Colony,
P.O.-Lumding, Dist.-Nagaon,
PIN-782447, Assam. --- Applicant.

Vs

1. Union of India represented
by General Manager, N.F.Rly.,
Maligaon, Guwahati-781011.
2. Chief Operating Manager, N.F.
Rly., Maligaon, Guwahati-11.
3. Chief Personnel Officer, N.F.
Rly., Maligaon, Guwahati-11.
4. Divisional Railway Manager,
N.F.Rly., Lumding-782447.
5. Senior Divisional Personnel
Officer, N.F.Rly., Lumding,
PIN-782447, Assam. --- Respondent.

1. Subject matter of the Applications
Stepping up of Pay of the applicant.

Filed by 20
N. Datta, (Advocate)
Maligaon, Guwahati-781011.

2. Jurisdiction of the Tribunal:

The applicants declares that the subject matter is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation:

The applicant submits that application is within the period of limitation.

4. Facts of the Case:

4.1) That, the applicant is a citizen of India and is entitled to rights and previledges available to citizen of India.

4.2) That, the applicant was appointed on 22-7-63 as Engine Cleaner in the Mechanical Department of N.F.Railway and was posted at Lunding Loco Shed. That he was promoted to the post of Diesel Assistant Driver(in short DAD) on 23-6-81 in scale Rs.290-360/-. On 11-2-84 the applicant was promoted as Shunter in scale Rs.290-400/-. On 20-12-85 the applicant was promoted to the post of Goods Driver in scale Rs.1360-2200/-.

4.3) That, the Railway Board, vide letter No.PC/III/84/UPG/19 dtd.25-6-86 issued Orders for Cadre review and restructuring of Group 'C' & and Group 'D' staff. In respect of Fireman 'A' and DAD the special pay @ Rs.15/- per month to the extant of

30% of the post in each category was sanctioned with effect from 1-7-85. After introduction of the revised scale of pay with effect from 1-1-86 the element of special pay was to be taken into account in the fixation of pay of Fireman and DAD. The above benefit of arrears were made to the concerned staff vide Bill No.450-FR/No.1166 dtd.14-6-93.

A copy of the Railway Board's letter No.PC/III/94/UPG/19 dtd. 26-6-85(relevant portion) is annexed as Annexure-A/1.

4.4) That, Shri N.B.Chakraborty, Shri Moti Mazumdar, Shri Gopal Dey-II, Shri Santosh Sarkar, Shri J. Uddin, Shri P.K.Goswami, Shri B.D.Roy, Shri K.C.Roy who are senior to the applicant as DAD.

4.5) That, Shri J.Uddin, Shri B.D.Roy, Shri P.K. Goswami and Shri K.C.Roy who are junior to the applicant at the DAD and were drawing pay of Rs.302/- in 1983 when the applicant pay as DAD was also Rs.302/-. But due to merger of special pay of the above juniors were fixed at higher stage after they were given the benefit of special pay and its merger.

A comparative chart showing the pay etc., of the applicant and his juniors is annexed herewith as Annexure-A/2.

4.6) That, in the year 1966, Railway Board under letter No.PC 60/PPI dtd.19-3-66, communicated sanction of the President that when a Railway servant promoted or appointed to a higher post on or after 1-4-61 draw a lower rate of pay in that post than another railway servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, the pay of the senior employee in the higher post should be stepped up to a figure equal to the pay as fixed for the junior employee in that higher post from the date of promotion or appointment of the junior employee.

An extract ^{of the} letter as published in the Railway Establishment Manual Law and Practice by Shri M.L.Jand, Assistant Professor, Railway Staff Training College, Vadodara, is annexed herewith as Annexure-A/3.

4.7) That, as the pay of the juniors of the applicant were higher than that of the applicant, the applicant represented to the Divisional Railway Manager on 9-5-93 for stepping up of his pay to the stage where his juniors' pay have been fixed on being promoted as Shunters and Drivers.

A copy of the said representation is annexed herewith as Annexure-A/4.

4.8) That, the Senior Divisional Personnel Officer, N.F.Rly., Lunding (Respdt. No. 5) made a proposal for stepping of the pay of the senior employees including the applicant and submitted the same to the Accounts Branch for vetting but the Accounts Branch returned the proposal suggesting submission of papers to Chief Personnel Officer, N.F.Rly., Maligaon for clarification. Accordingly, Senior Divisional Personnel Officer, N.F.Rly., Lunding, sought the clarification the Chief Personnel Officer, N.F.Rly., Maligaon (Respdt. No. 3) vide D.O. letter No. E/41/1/LM(Restr.) dated 8-11-93.

A copy of the said letter No. E/41/1/LM(Restr.) dated 8-11-93 is annexed herewith as Annexure-A/5.

4.9) That, the Divisional Railway Manager, N.F.Rly., Lunding, vide letter No. E/UL/1/LM(Restr.) dtd. 7-7-94 informed Shri G. R. Paul and others who made representations for stepping up that a reference was made to Head Quarters for clarification and the General Manager (P), N.F.Rly., Maligaon has passed the following orders:-

"If in the lower grades the junior employees draws higher rate of pay than the senior employee, due to advance increment or accelerated promotion etc., the stepping up of pay of the senior employee will not be applicable."

A copy of the letter No. E/UL/1 (Restr.) dated 7-7-94 is annexed herewith as Annexure-A/6.

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4.10) That, as the clarification given by the General Manager(P), N.F.Rly., Maligaon was not on correct appreciation of facts and the orders of the President, the applicant made a representation to the Chief Operating Manager(P), N.F.Rly., Maligaon on 20-7-94 for re-examination of the applicant's case in its proper perspective and to set right the injustice done to the applicant. But no reply has been received by the applicant as yet.

A copy of the representation dated 18-8-94 is annexed herewith as Annexure-A/7.

5. Ground for relief:

5.1) That, as the pay of the applicant's juniors were fixed at a higher stage than that of the applicant as a measure of restructuring benefit, the applicant is entitled to the benefit of stepping up rule and to be fixed at the stage where his juniors have been fixed as the applicant and his juniors belong to same cadre and the pay of the juniors were fixed at a higher stage not as a result of accelerated promotion or advance increment but due to special pay granted to the DADs for cadre restructuring.

5.2) That, the applicant is being paid less salary due to refusal of the respondents to step-up his pay as per the orders of the President.

6. Details of the remedies exhausted:

That, the applicant has represented to Respondent No. 2 and 4, the Chief Operating Manager (P), N.F.Rly., Maligaon and Divisional Railway Manager, N.F.Rly, Lumding, for stepping up of his pay.

7. That, the applicant declares that he has not previously filed any application, writ petition or suit in respect of the subject matter of this application in any other court or bench of the tribunal nor any such application, writ or suit is pending before any of them.

8. Relief sought:

On the facts and circumstances submitted above the applicant humbly prays for:-

Issue of a direction to the respondents for re-fixation of his pay on the basis of stepping up rule at the stage his juniors have been fixed and to pay the arrears with interest.

9. Particulars of application fees:

Indian Postal Order No. 514765 for Rs. 50/- (fifty) only is enclosed.

VERIFICATION

Contd./---p8

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V E R I F I C A T I O N

I, Shri Ranjit Kumar Dey, Son of Late
G. C. Dey, aged about 50 years, resident of
Qrs. No.L/56A, Loco Colony, P.O.-Lumding,
PIN-782447, Dist.-Nogaon, Assam, do hereby
verify that the contents of para 4, 6, 7 &
9 are true to my knowledge and belief and the
rest are my submissions before the Hon'ble
Tribunal and I have not suppressed any
material facts.

Date: 19-9-95
Place:

Ranjit-Kumar Dey
Signature of the applicant.

.....

R.B.F. No. 131/85

Subject: Cadre Review and Restructuring of Group 'C' and 'D' Staff.

No. PCIII/84/UPG/19, dated 25-6-1985.

Restructuring of certain Group 'C' & 'D' cadres have been under consideration in consultation with the Staff in the Committee of the Departmental Council of the JCM(Railways) for sometime. The Ministry of Railways have decided with the approval of the President to restructure certain categories of Group 'C' & 'D' as detailed in the Annexure enclosed.

2. While implementing these orders specific instructions given in the footnote under the different categories should be strictly and carefully adhered to.

3. For the purpose of restructuring the cadre strength as on 1-1-1984 will be taken into account and will include Rest Giver and Leave Reserve posts.

4.1 The staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 2018-B(FR-22-C)-RII w.o.f. 1-1-1984 on proforma basis with current payments w.o.f. 1-1-1985. The benefit of fixation will be applicable to the chain/resultant vacancies which arise from restructuring.

4.2 The posts of Shunting Drivers scale Rs.330-560/- will be filled from Shunters grade Rs.290-400/- on the basis of seniority-cum-suitability. The posts of Driver Grade 'C' scale Rs.330-560 will however, be filled as per extant orders for promotion of Shunters to Driver Grade 'C'. Fixation of pay of Shunters grade Rs.290-400/- appointed as Shunting Driver Grade Rs.330-560/- will be regulated under 2018A R-II (FR-22C). Shunting Drivers grade Rs.330-560/- appointed as Driver 'C' scale Rs.330-560 will have their pay fixed under Rule 2017(a)(ii)-RII(FR-22(a)(ii)).

4.3 The benefit of retrospective fixation from 1-1-1984 and current payment from 1-1-1985 will not be applicable to such of those employees who are promoted against vacancies existing on the date of restructuring. They will be granted benefits only from the date of promotion as per normal rules.

Alleged

Contd./-

5.1 The existing classification of the posts covered by these restructuring orders, as "Selection" and "Non-Selection", as the case may be, remains unchanged. However, for the purpose of implementation of these orders, if an individual Railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a "Selection" post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on the scrutiny of service records without holding any written and/or viva-voce test. Under this procedure, the categorisation 'Outstanding' will not exist.

5.2 In case, however, as a result of these restructuring orders, an individual Railway servant becomes due for promotion to a grade more than one grade above that of the post held by him at present on a regular basis, the benefit of the modified procedure of selection as aforesaid will be applicable only to the first such promotion (if that post happens to be a 'Selection' post); the second and subsequent promotions, if any, will be based only of the normal rules relating to filling in of 'Selection' or 'Non-Selection' posts, as the case may be.

5.3 Vacancies existing on 1-1-1985 and those arising on that date from this restructuring should be filled in the following sequence:-

(i) Men panels approved on or before 30-6-1985 and current on that date;

and
(ii) balance in the manner indicated in paras 5.1 & 5.2 above.

5.4 For such of the posts in the Annexures to this letter as fall in "Safety category", the instructions contained in this Ministry's letter No. 8(11) 1-83-11000, dated 7-10-83 will apply mutatis mutandis in respect of promotions against vacancies covered by these restructuring orders.

6. The restructuring orders visualise grant of special pay to certain categories. The grant of special pay will be effective from 1-7-1985 only.

6.1 The existing rules and orders in regard to reservation for SC/ST will continue to apply while filling up additional vacancies in the higher grades arising as a result of restructuring.

Contd./Annex A/1

7. The non-functional collection grade posts, if any, existing in the categories covered by these orders are to be adjusted against the approved posts. Any holders of non-functional collection grades not so adjusted will continue to retain such as per usual till the next review.

8. 7.1 sanction for grant of non-functional collection grade posts for the category of Driver 'A' Special, Guard 'A' Special and Assistant Guard will issue separately.

9. In the case of running staff readjustment in running allowances consequent to restructuring will be done separately.

10. In all the categories covered by this letter even though some posts in higher scales of pay have been introduced as a result of restructuring, the basic functions, duties and responsibilities, attached to these posts at present will continue, to which may be added such other duties and responsibilities as considered appropriate.

11. The Board expects that restructuring and posting of staff after due process of selection as provided for in these orders, should be completed expeditiously.

12. The Railways will carefully assess requirement of funds on account of this restructuring for the year 1982-83 and include them in the revised estimates for 1982-83 and Budget Estimates for 1983-84 by telegraphic advice to addl. Director, Finance (I), Railway Board.

1982-83-1

Subject: Statement indicating restructuring of certain Group 'C' and 'B' cadres on Railways. No. 111/61/19, dated 25.6.1982.

1. Loco Running Staff:

a. Passenger Driver 'A' (Rs. 650-700/-)

All Passenger Train Drivers 'A' having a run of 450 kms. and above to be upgraded from Driver 'A' (Rs. 550-700/-) to Driver 'A' Spl. (Rs. 650-700/-).

All Loco Drivers for 'A' Spl. and 'A' Drivers to be kept in Grade only.

Alvin

K. Bhatta
Secretary, Railway Board

Confid./-113

Revised

Percentage

1. **Goods Driver Gr. 1st** (R. 210-230/- = 60%)
Goods Driver Gr. 1st R. 215-235/- 60%
 60%.
2. **Goods Driver Gr. 2nd** (R. 230-250/- = 60%)
Goods Driver Gr. 2nd R. 235-255/- 60%
 60%.
3. **Shunters** (R. 250-270/-)
Shunters to be operated as shunting drivers R. 250-270/-.
4. **Piraman 1st/Personal** (R. 280-300/-)
Piraman 1st/Personal to be given special pay of R. 15/- per mo.
 Total R. 280-300/-.
5. **Piraman 2nd** (R. 300-320/-)
Piraman 2nd to be given reserve posts for Piraman 1st hitherto kept in Piraman 2nd to be operated to Piraman 1st.
6. **Piraman 3rd** (R. 320-340/-)
Piraman 3rd to be operated to scale R. 320-340/-.
7. **Notes:** 30% of Piraman 1st scale R. 320-340/- will be operated to scale R. 350-370/- will remain designated as Piraman 1st and utilized as far as possible as Mail, Express and Passenger Trains. The further advance of promotion of Piraman 1st in scale R. 350-370/- and R. 370-390/- will remain unaltered.
8. **Notes on G.M. Train** 50% on Western Railway and 50% on Central, Eastern, Southern and N.E. Railways to be upgraded as Driver 1st Spl. in scale R. 550-750/-.

II. Traffic Manning Staff:

1. **Passenger Guard 1st** (R. 325-345/-)
 All Passenger Train Guards having a run of 250 kms. and above to be upgraded to Guard 1st Spl. R. 325-345/-.
2. **Notes:** Reserve for 1st Spl. and 2nd Guard to be kept in 1st Grade only.

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Amir Ali (contd)

2002-2003
2004-2005

(A) 0000 0000 0000 0000 0000 0000
0000 0000 0000 0000 0000 0000

(11) Canada C. and C. Co. 10000 Cash
 (10000 Cash) 10000 Cash
 10000 Cash

III. Accounts Staff:

IV. Cash & Pay Office Staffs

V. Tool Charges

VZ. | Pracek (r. 2009 = 400/-): ooooooooooooo

VII. permanent copy dated to permanent May 11th 1961

VIII. Nonnegotiable Charter Office (Central Eastern & Western Railways only):

1954-1955

Railway-ies Distribution of Supervisory Staff of Each of the Departments:

I. Separate Cash Payment Slip:

January (both separate & combined entries):

Александр

1-11-73 1111

R.K. Dev, Goods Driver

<u>20.12.85</u> 340/-	<u>20.12.86</u> 350/-	<u>20.12.87</u> 1380/-	<u>20.12.88</u> 1410	<u>20.12.89</u> 1440/-	<u>20.12.90</u> 1480/-	<u>20.12.91</u> 1520/-
				<u>20.12.92</u> 1560/-	<u>20.12.93</u> 1600/-	<u>20.12.94</u> 1640/-

N.D. Chakraborty

<u>18.6.91</u> 1480/-	<u>18.6.92</u> 1520/-	<u>18.6.93</u> 1640/-	<u>18.6.94</u> 1680/-
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P.K. Goswami

<u>11.3.88</u> 1410/-	<u>11.3.89</u> 1440/-	<u>11.3.90</u> 1480/-	<u>11.3.91</u> 1520/-	<u>11.3.92</u> 1560/-	<u>11.3.93</u> 1640/-	<u>11.3.94</u> 1680/-
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G.C. Dev-II

<u>9.4.88</u> 1410/-	<u>9.4.89</u> 1440/-	<u>9.4.90</u> 1480/-	<u>9.4.91</u> 1520/-	<u>9.4.92</u> 1560/-	<u>9.4.93</u> 1640/-	<u>9.4.94</u> 1680/-
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S.R. Markar

<u>9.4.88</u> 1410/-	<u>9.4.89</u> 1440/-	<u>9.4.90</u> 1480/-	<u>9.4.91</u> 1520/-	<u>9.4.92</u> 1560/-	<u>9.4.93</u> 1640/-	<u>9.4.94</u> 1680/-
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Motilal Majumdar

<u>9.4.88</u> 1410/-	<u>9.4.89</u> 1440/-	<u>9.4.90</u> 1480/-	<u>9.4.91</u> 1520/-	<u>9.4.92</u> 1560/-	<u>9.4.93</u> 1640/-	<u>9.4.94</u> 1680/-
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J. Uddin

<u>6.3.89</u> 1440/-	<u>6.3.90</u> 1480/-	<u>6.3.91</u> 1520/-	<u>6.3.92</u> 1560/-	<u>6.3.93</u> 1640/-	<u>6.3.94</u> 1680/-
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B.D. Roy

<u>10.4.88</u> 1410/-	<u>10.4.89</u> 1440/-	<u>10.4.90</u> 1480/-	<u>10.4.91</u> 1520/-	<u>10.4.92</u> 1560/-	<u>10.4.93</u> 1640/-	<u>10.4.94</u> 1680/-
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K.C. Roy

<u>6.3.89</u> 1440/-	<u>6.3.90</u> 1480/-	<u>6.3.91</u> 1520/-	<u>6.3.92</u> 1560/-	<u>6.3.93</u> 1640/-	<u>6.3.94</u> 1680/-
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A. K. S.

A. K. S. (Signature)
Muzumdar, Burdwan-781012

ENCLOSURE - 12/3

STOPPING UP

Fixation of pay on promotion or appointment to higher posts - anomalies arising out of the application of rule 2018-B (F.R. 22-C)-II.

1. The question of removing certain anomalies arising as a result of fixation of pay of railway servants promoted or appointed to higher posts after the introduction of rule 2018-B (F.R. 22-C)-II has been under the consideration of the Board for sometime past.
2. By a strict application of the above rule, it may happen that a railway servant promoted or appointed to a higher post on or after 1-4-1961 may draw a lower rate of pay in that post than another railway servant, junior to him in the lower grade and promoted or appointed subsequently to another identical post.
3. In order to remove this anomaly the President is pleased to decide and in such cases the pay of the senior employee in the higher post should be stopped upto a figure equal to the pay as fixed for the junior employee in that higher post. The stopping up should be done with effect from the date of promotion or appointment of the junior employee and will be subject to the following conditions, namely -
 - (a) Both the Junior and Senior employees should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre; and
 - (b) The scale of pay of the lower and higher posts in which they are entitled to draw pay should be identical; and
 - (c) the anomaly should be directly as a result of the application of rule 2018-B (F.R. 22-C)-II. For example, if even in the lower post the junior employee draws from time to time a higher rate of pay than the senior by virtue of fixation of pay under the normal rules say due to grant of advance increments or due to accelerated promotion etc. the provisions contained in this letter will not be invoked to step up the pay of the senior employees.
4. The orders refixing the pay of the senior employees in accordance with the provisions of this letter shall be issued under rule 2033 (F.R. 27)R-II. The next increment of the senior employees will be drawn on completion of the requisite qualifying service w.e.f. the date of refixation of pay.
5. These orders take effect from 2-2-66. Cases of seniors drawing less pay than juniors in respect of promotions occurring on or after 1-4-61 may also be regulated under these orders but the actual benefit would be admissible from 2-2-1966.

P27

Page 161

1966

Alleged

A. Dutta (Advocate)
Jalgaon, Gujarat-392011.

Annex A/4

-16-

52

To,
The Divl. Railway Manager(P),
N.F. Railway, Lunding.

Sir,

Sub:- Stepping up of Pay.

With due respect I beg submit a few lines for
your information & necessary action please.

That Sir, I have been working as Goods Driver
from 26-12-85... and my basic pay is now Rs. 1560/-. But
in your Memorandum No. E/41/ILM(Re-Structuring) of 16-10-92
it is seen that the pay of S/Sri G.C. Dey, II Jaiuddin,
K.C. Roy, M.L. Majumder, N.D. Chakraborty & S.R. Sarkar, is
now higher than me though they are junior to me.

Therefore, you are requested to please look
into this and arrange to stepping up my pay on the pay
of my juniors are higher than me at the earliest and
thus oblige thereby.

With regards,

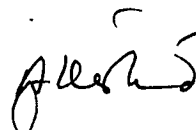
Yours faithfully,

Dated, Lunding

The 09-05-... 1993

Ranjil Kumar Dey
Driver "Goods" mg

Recd
on 9.5.93


R. Dey (Advocate)
Mahagan, Guwahati-781011.

-17-

Annex A/5

30

NORTHEAST FRONTIER RAILWAY.

A. P. Barua
Secy DPO/LMG

OFFICE OF THE
D. M. (P)/LUMDINO

D. O. No. E/41/1/LM(Restr.)

Dt. 8/11/83.

Dear Shri Chakraborty,

Subj - Stepping up of pay of seniors.

In terms of Rly. Board's letter No. PC-III/84/UPQ/19 dated 25-6-86 and 13-8-86 circulated under CPO/MLG's letter No. E/205/73/Pt. IV DATED ~~xxxx~~ 10-7-88 and 29-8-88 except the categories of Fireman 'A' and DAD all other running categories were re-structured w.e.f. 1.1.84 on proforma fixation and w.e.f. 1.1.85 with monetary benefit. The categories of Fireman 'A' and DAD, which were not re-structured, were however given the benefit of special pay @ Rs. 15/- p.m. to the extent of 30% of posts in each category and accordingly, spl. pay was sanctioned in favour of the seniormost persons in each category.

With the introduction of revised scale w.e.f. 1.1.86 (4th P.C.), the element of spl. pay Rs. 15/- was done away but the same was allowed to be taken into account in the fixation of pay of Fireman and DAD in terms of Rly. Board's letter No. PC-IV/88/RRP/1 Pt. 19, D.O. received under OM(P)/MLO's No. E/206/III/43(M) - dated 29/7/81. This exercise created anomalies whereby the pay of hunter promoted prior to 1.1.84 was fixed at lower stages whereas the pay of those enjoying the spl. pay was fixed at higher stages on promotion as hunter in the revised grades.

Consequent on the above, now the senior persons drawing lower pay than their juniors have claimed stepping up of their pay to the extent of their juniors. A proposal for stepping up of the pay of senior persons was sent to Accounts for vetting but Accounts has returned the proposal about with following observations:

- " It is seen from the case No. E/41/1/LM(Restr.) at PP-4 that junior goods drivers are drawing more pay than their seniors on account of fixing of pay after taking special pay of Rs. 15/- into account.

In similar cases Rly. Bd.'s decision has been obtained. But it seen that Bd.'s decision varies according to merit of individual cases. Hence the case may kindly be referred to CPO/M.F. Rly./Maligaon for obtaining clarification from Rly. Board."

In view of the above, it is requested that necessary clarification may please be communicated for the purpose at an early date since this issue is most likely to be raised in the FPM also.

This may please be treated as urgent by communicating early decision.

With regards,

A. P. Barua
Yours sincerely,

A. P. Barua
Maligaon, Dibrugarh

(A. P. Barua)

To:
Shri M. B. Chakraborty,
CPO/Maligaon

78- Annex- A/c 9
No. E/VI/1/M (Roster)

Office of the
Divl. Rly. Manager

Landing, dtd: 7/7/94

To
Shri Chitta Ranjan Paul,
Goods Driver/Landing and Others

(Through LF/Landing.)

Sub:- Stepping up of pay

Ref:- Your letter dtd: 9/5/93.

In reference to your letter quoted above, this is to inform you that in connection with the above subject a reference has been made to HQ for clarification and GM(P)/MLG vide his letter No. E/233/III/59 (M) Loose, dtd: 3/6/94 has passed the orders as follows:-

"If in the lower grades the junior employee draws higher rate of pay than the senior employee, due to advance increment or accelerated promotion etc., the stepping up of pay of senior employee will not be applicable."

S.N. Roy
APO/II

for Divl. Rly. Manager (P),
N.F. Rly. Landing.

TKM/7794,

Alleged
R. Dutta. (Ad-oc)
Manager, Guwahati-781011.

Box A/T

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Sub:- Wrong interpretation and implementation of Hly.Bi's orders - deprivation and hardship arising thereof.

Respectfully, I beg to submit the following factual positions which appear to have not been taken into consideration while clarifications as sought for by the Sr.DPO/LMG vide his D.O.letter No.E/41/1/LM(Restr) dated 8.11.93 had been extended by GIN(P)/Maligaon vide his letter under reference.

That Sir, while the Sr.DPO vide his D.O.letter mentioned above had correctly explained the background of the case, the emphasis had wrongly been laid on 'Stepping up of Pay of seniors to the level of the Juniors drawing higher pay' instead of on removing the anomalies in pay arising out of wrong interpretation and implementation by the DEM(P)/LMG of the Bd's orders regarding grant of Spl. pay to seniormost Fireman 'A'/DADs as mentioned in para-I of the aforesaid D.O.letter of Sr.DPO/LMG.

That Sir, even if, the matter is considered as a case of 'stepping up' in the light of the clarification given by the GM(P)/MLG, it may be pointed out that I am being paid lower pay not because my juniors enjoying higher pay had been granted (i) advance increment or (ii) accelerated promotion but simply because my junior colleagues like S/Sri M. G. Ganesan, Mahi Magunder Spl. Dy. A. Sankar had been wrongly granted with the special pay of Rs.15/-pm which when considered at the time of fixation of PSRP '86 scale of pay w.e.f.1.1.86 raised their pay to higher stage than me inspite of myself being senior to above named and also having been promoted to higher grade earlier to these junior colleagues. Had the Spl.pay been granted to the seniormost only as desired by the Hly.Board, the anomaly and consequential deprivation being suffered by me would not have arisen at all.

contd...2

Handwritten signature
R. Datta, (Admission)
Mellor, Amherst, 751011.

That Sir another aspect of the wrong interpretation and implementation of the Bd's orders in regard to the grant of Spl.pay in question as indulged in by the DPM(P)/Lumding need also to be clearly pointed out which is as under:-

That, some of the senior incumbents including myself has been declared promoted on and from 11.2.86 Ref. Sl. No. 162 of seniority list for Hunter/B, circulated under DPM(P)/LUM's No. 1/235/1/IM dt. 25.5.86 showing the position as on 1.4.85) while the restructuring benefit to Loco running staff other than F/man-A & DADs as well as Special pay to 30% seniormost among the F/man-A & DADs had been granted w.e.f. 1.1.84 with financial benefit w.e.f. 1.1.85. But in spite of having been in the Grade of F/man-A/DAD upto 10.2.84 (the preceeding day of my promotion to the Grade of Hunter/B, I was not awarded with the benefit of special pay although I had been senior in the Grade of F/man-A/DAD to the junior colleagues as above mentioned. Had the benefit of Spl.pay been awarded to me as had been due as per Board's orders my pay on promotion as well as at the time of fixation of pay from 1.1.86 in terms of 4th CPC award, would have been much higher than what I had actually been paid with. /***

Under the above circumstances I would humbly pray for your kind intervention, a thorough re-examination of my case in it's true perspective and set-right the wrong done to me causing immense financial deprivation and consequential hardship. And for such an act of your kindness I shall feel much obliged.

I would also like to mentioned here that unless my above justified prayer receives your favourable consideration and remedial action within a reasonable time of 3 months at the most, I will be left with no other alternative but to seek justice through the judiciary. I, however, hope that you would not push me to such a circumstantial compulsion.

With best regards,

Yours faithfully,

/***

Para-6 of Board's circular No. PC/III/85/UPG/19 dtd: 25/6/85 reads as under:-

" The restructuring orders visualised grant of Special pay to certain categories. The grant of Spl.pay will be effective from 1.7.85 only."

Ranjit - KK: Duf
DPM(P) Lumding
21.20.07.94

Received
19/8/94

Attested
21.20.07.94
Malligatta, DPM(P) Lumding