

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA 298/2015 in
OA 219/2013
MA 3929/2015

Reserved on: 3.03.2017
Pronounced on: 7.03.2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

Shri R.S. Rathi
S/o Shri P.S. Rathi
Loco Inspector under DRM
Northern Railway, State Entry Road
New Delhi ... Applicant

(Through : Shri Yogesh Sharma, Advocate)

Versus

1. Union of India through
The Secretary,
Railway Board,
Ministry of Railway, Rail Bhawan,
New Delhi
2. General Manager
Northern Railway, H.Q.
Baroda House, New Delhi
3. Divisional Railway Manager
Northern Railway,
State Entry Road,
New Delhi ... Respondents

(Through : Shri Shailendra Tiwary, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

This Review Application (RA) has been filed against the order dated 25.07.2014 in OA 219/2013 on the ground that the following observations in the order are not factually correct:

- (i) ".....therefore, Shri Ajay Kumar is getting more pay than the applicant from the year 2003 itself." It is stated that on 1.07.2003, the applicant was getting Rs.6200/- and private respondent was at the stage of Rs.6200/- on 1.08.2003. This fact is borne out from the table in para 3 of the counter affidavit filed by the respondents in the OA;
- (ii) It is stated that in para 4 of the order, the following has been mentioned:

"The applicant at that time was holding Stationary Post-Non Running Category Post whereas Shri Ajay Kumar was working in Running Category Post."

It is pointed out that both the applicant as well as the private respondent was on Running Category Post, which is not challenged by the respondents counsel;
- (iii) In para 6 of the order, it has been observed that "they belonged to different categories of staff and were not on the same footing".

In this regard it is stated that though the private respondent was recruited directly as Diesel

Assistant and the Applicant as Loco Cleaner, later on they both came to the same cadre namely Loco Pilot Shunter, Loco Pilot Goods, Loco Pilot Passenger and finally Loco Inspector; and

(iv) OA 3857/2010, **Shri Surinder Kumar Dhingra Vs. Union of India and others**, which also dealt with the issue of stepping up of pay, was allowed by the Tribunal.

2. Review Applicant has also filed judgment of the Hon'ble High Court of Delhi in Civil Writ Nos.9428-29/2005, **Union of India and another Vs. Afroz Ahmed and others** but this is regarding grant of ACP benefits and reckoning of seniority when the respondents therein were first appointed as Apprentice. We do not see how this is relevant in the present case. The applicant reiterated that Ministry of Railways has issued instructions RBE No.236/2009 dated 24.07.2009, which specifically envisaged a situation that has arisen in the present OA. We quote below the contents of this letter for easy reference:

“ It has come to the notice of the Board that staff appointed prior to 1.01.2006 as Loco Running Supervisors in the pre-revised pay scales, whose pay has been fixed in the replacement pay structure for Loco Running Supervisors under the RS (RP) Rules, 2008, are drawing less pay than juniors appointed as Loco Running Supervisor after 1.01.2006. The anomaly has arisen due to the fact that the benefit of element of Running allowance granted at the time of promotion of running staff to a stationary post has been granted to the junior in the revised pay structure, whereas, the same benefit granted to the senior is of lesser value as the same has been calculated on the pre-revised pay scale.

2. It has been decided that the anomaly may be resolved by granting stepping up of pay in pay band to the seniors at par with the juniors in terms of Note 10 below Rule 7 of RS (RP) Rules, 2008.
3. The benefit of stepping up of pay in pay band will be subject to the following conditions:-
 - (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 and other conditions enumerated in Note 10 below Rule 7 of RS (RP) Rules, 2008 should be fulfilled;
 - (b) The stepping up of pay will be allowed to running staff only appointed as Loco Supervisors in whose cases 30% of basic pay is taken as pay element in the running allowance. The stepping up of pay will not be admissible to the non-running staff of Mechanical Deptt. appointed as Loco Running Supervisors as in their cases the question of pay element in the running allowance does not arise;
 - (c) If even in the lower post, revised or pre-revised, the junior was drawing more pay than the senior by virtue of advance increments granted to him or otherwise, stepping up will not be permissible;
 - (d) Stepping up will be allowed only once, the pay so fixed after stepping up will remain unchanged."
3. Respondents in their reply have insisted that there is no error apparent on the face of the record.
4. We have heard the learned counsel for the parties, gone through the pleadings available on record and perused the judgment cited.

5. In view of the issues raised by the review applicant, we are satisfied that this matter needs to be reheard. The RA is, therefore, allowed and OA No.219/2013 is restored to its original number. Post on 31.03.2017 for final hearing.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

/dkm/