

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-1957/2014

Reserved on: 03.10.2018

Pronounced on:12.10.2018

Hon'ble Sh. V. Ajay Kumar, Member(J)

Hon'ble Sh. A.K. Bishnoi, Member(A)

Sh. Ram Sukh, Age- 50 years,
s/o Sh. Ram Dayal, Post Khalasi,
R/o H.No. F-29, Gali No. 4,
Khajuri Khas, Delhi-110094.

... Applicant

(through Sh. R.K. Shukla)

Versus

1. Union of India & Ors.
Through General Manager,
Northern Railway HQ,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
DRM Office, Northern Railway,
Estate Entry Road,
Paharganj,
New Delhi.
3. The Senior Divisional Personnel Officer,
DRM Office, Northern Railway,
Estate Entry Road,
Paharganj,
New Delhi.
4. The Divisional Personnel Officer,
DRM Office, Northern Railway,
Estate Entry Road,
Paharganj,
New Delhi.

-Respondent

(through Sh. Amit Chawla)

ORDER**Hon'ble Sh. A.K. Bishnoi, Member(A):**

Through this OA, the applicant has sought the following reliefs:

“(a) Quash and set aside the impugned order (Annexure A-1) directing the respondent to restore earlier status i.e. grade pay Rs. 2800/- which was given to the applicant from November, 2013 and

(b) to direct the respondents to pay the arrears of grade pay 2800/- instead of Rs. 2400/- which was reduced from February, 2014

(c) The OA of the applicant be allowed with all consequential benefits.

(d) Any other relief which this Hon'ble Tribunal deem fit and proper may also be passed in the facts and circumstances of the case in favour of the applicant.”

2. Briefly stated, the facts of the case as stated by the applicant are as follows:

(a) He was appointed as casual labour in 1970 to the post of Artisan Khalasi at Old Delhi Railway Station. He was regularised in the year 1975 and screened in 1979.

(b) As per Railway Board order dated 23.04.1997, there was restructuring and 80% of posts of Khalasi were upgraded to 800-1150 w.e.f. 01.03.1993. Consequently, the applicant was also upgraded which as per him was not a promotion.

(c) On 19.03.1998, the applicant was promoted as Mason in Group 'C' category in the Grade of 3050-4590 which was revised to the pay scale of Rs. 950-1500.

(d) Under the ACP Scheme, the applicant was given first financial upgradation on 11.03.2001 in the grade of 4000-6000 on completion of 24 years of service.

(e) With the MACP Scheme coming into effect, he was accorded third financial upgradation by order dated 14.11.2013 in the pay scale of Rs. 5200-20200 and grade pay of Rs. 2800/- .

(f) This order was withdrawn in February 2014 and the applicant's grade pay was fixed at Rs. 2400/- . No show cause notice was issued. The applicant represented against this action which was rejected.

3. The main ground on which the applicant has filed the instant OA is that the process through which his pay scale was fixed at a higher level within group D itself because of restructuring w.e.f 1993 has been wrongly treated as promotion and consequently withdrawing the grade pay of Rs. 2800 and reducing to Rs. 2400/- was illegal and arbitrary.

4. The respondents, on the other hand, while giving a narration of the career progression of the applicant have contended that the applicant before completion of 24 years of service on 11.03.2001 had been accorded two promotions. One is under

upgradation/restructuring on 01.03.1993 from the Grade 750-940 to 800-1150 and second as Mason graded 3050-4590 w.e.f. 19.03.1998. ACP was introduced on 01.10.1999 and before that the applicant had got two promotions. Instructions regarding merging of pay of Group D was issued under 6th Central Pay Commission and accordingly the benefits of three promotions were given to the applicant by counting first promotion in Grade 3050-4590 (Grade Pay of Rs. 1900/-), second in Grade Pay of Rs. 2000/-) and third in Grade Pay of Rs.2400/- in MACP.

5. The applicant has filed a rejoinder in which he has more or less reiterated the averments made in the OA.

6. Heard learned counsel for the applicant and for the respondents.

7. The main point of contention in the present OA is whether the process through which the pay scale of the applicant was increased from 750-940 to 800-1150 under upgradation/restructuring of 01.03.1993 is to be treated as promotion or not. In this regard, reference is made to documents at Annexure A/3 ,which is a copy of the order dated 01.03.1993 through which the restructuring has been done and order dated 23.07.1997 through which the pay of the Khalasis including the applicant has been revised. A reading of these documents reveals that prior to the restructuring done w.e.f 01.03.1993, the post of Artisan Khalasi had two components one,

with 65% of the strength, in the scale 775-1025 and, the second with 35% of the strength, in the scale of 750-940. After restructuring, the division in strength between the two components was changed from 65% and 35% to 80% and 20%. In the modified structure, 80% of Artisan Khalasis were given revised pay scale of 800-1150 while 20% were given the scale of 750-940. Thus, even after restructuring, they continued to be two scales in the post of Artisan Khalasi, one higher and one lower but the ratio of those in the higher scale as compared to those in the lower scale changed from 65:35 to 80:20. The applicant, who, prior to the restructuring was in the lower of the two scales (750-940), after restructuring, moved up to the higher of the two scales (800-1150). Thus, by the process of restructuring, not only the scale of pay of the applicant got revised upwards, he was also benefited by moving from the lower of the two scales in that particular post to one which was higher of the two. This upward mobility of the applicant in the hierarchy of scales, leaving behind several others, who were in the same lower scale as him, is a feature quite distinct from a mere upward revision of pay scales. It is on account of this feature that we find that, in this process, the case of the applicant is of the same nature as promotion and so has to be treated as such. This being so, all further acts of the respondents follow naturally, as explained by them.

8. In view of the above, we find that the applicant has failed to establish that there is any fault in the impugned order of the respondents dated 20.01.2014.

9. The OA is accordingly dismissed as being devoid of merit. No order as to costs.

(A.K. Bishnoi)
Member(A)

(V. Ajay Kumar)
Member(J)

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