

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
[Circuit Court at Ranchi]  
O.A./051/00184/2016**

Date of order : 09<sup>th</sup> August, 2018

**C O R A M**

Hon'ble K.N. Shrivastava, Member (Admn.)  
Hon'ble Mr. Jayesh V. Bhairavia, Member [Judicial]

Abhay Kumar Singh, aged about 55 years, S/o Late Ram Bilas Singh, Posted as Chief Controller, Under Divisional Traffic Manager, E.C. Railways, Barkakana.

..... Applicant.  
By Advocate : Shri N.N. Singh.

Vrs.

1. The Union of India through the General Manager, E.C. Railway, Hajipur – 844101.
2. The Divisional Railway Manager, Dhanbad Div, Dhanbad.
3. The Divisional Personnel Officer, E.C. Railway, Dhanbad Div, Dhanbad.
4. The D.K. Mishra, Chief Controller, E.C. Railway, o/o DRM Dhanbad.

..... Respondents.  
By Advocate : Shri P.D. Singh.

**ORDER  
[O R A L]**

**Per Mr. K.N.Shrivastava, Member (A):-** The applicant joined as a Goods Guard under the respondents Railway Department on 10.11.1986. Respondent No.4 also joined as Goods Guard on the same date. The applicant secured his next promotion to the cadre of Section Controller on 29.07.1993 whereas respondent No.4 was promoted to the cadre of Section Controller on 28.02.1997. In the inter se seniority in the Goods Guard, the applicant was senior to respondent No.4

2. After the implementation of recommendation of 6<sup>th</sup> CPC

from 01.01.2006, pay fixation of the applicant and respondent No.4 was done. Since the respondent No.4 was still working as a Goods Guard, he got the benefit of 30% of running allowance in his pay fixation, whereas the applicant's pay was fixed in accordance with the replacement scale recommended by the 6<sup>th</sup> CPC for the post of Section Controller.

3. Later on, the applicant got promoted to the grades of Dy. Chief Controller and Chief Controller whereas respondent No.4 could get promoted only to the next grade of Dy. Chief Controller when the 6<sup>th</sup> CPC recommendations came into effect w.e.f. 01.01.2006. The post of Dy. Chief Controller and Chief Controller were merged and were placed in the pay scale of PB –II (Rs.9300-34800 + Grade Pay 4600). Since the pay of respondent No.4 under 5<sup>th</sup> CPC was fixed after taking into consideration of running allowance since he was then still working as a Goods Guard, he started getting higher basic pay in comparison to the applicant. Even though, the applicant was senior to respondent No.4 in the cadre of Goods Guard, this anomaly has continued through out. So much say that after the merger of the posts Dy. Chief Controller and Chief Controller in terms of the 6<sup>th</sup> CPC recommendation, the basis pay of respondent No.4 has been fixed at Rs.30580/- whereas that of the applicant is at Rs.30190/-. The applicant is aggrieved of this anomaly and claims that in terms of IREC Vol II Rule 1316(2), he has to be granted pay parity with his junior i.e. respondent No.4.

4. We heard arguments of Shri N.N. Singh, learned counsel for the applicant. He elaborated in great details on the IREC Vol II Rule 1316(2) and submitted that the applicant deserves pay parity with respondent No.4.

5. Shri P.D. Singh, learned counsel for official respondents

submitted that this O.A. is severely hit by the principle of res-judicata. He submitted that this controversy has already been adjudicated by the Tribunal in O.A.272/2014 filed by the present applicant and was disposed of vide order dated 27.06.2016. He thus argued that on this ground itself, this O.A. deserves to be dismissed.

6. Shri N.N. Singh, learned counsel for the applicant submitted that the reliefs claimed by the applicant is a nature of recurring cause of action and thus the issue of limitation would not apply.

7. We have considered the arguments of learned counsel for the parties and have also perused the pleadings. It is not in dispute that the controversy raised in this O.A. has already been adjudicated by the Tribunal in O.A. No.272/2014, which was dismissed vide order dated 27.06.2016. We have perused the said order of the Tribunal. We find that the dismissal of the same O.A. was not on the basis of merit but on the ground of limitation. Be that as it may, as on date as long as the said order of the Tribunal remains in force, controversy raised in the present O.A. cannot be re-adjudicated by the Tribunal. The principle of res-judicata would come in play. It is, however, noted that the reliefs claimed is of recurring in nature. The right course of the applicant is to challenge the order dated 27.06.2016 in O.A. No.272/2014 of the Tribunal before a higher judicial forum, if he so wishes.

8. With the above observations, this O.A. is dismissed with no order as to costs.

[J.V. Bhairavia]  
Member (J)

[K.N. Shrivastava]  
Member (A)

sk/s/-