

## CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, R A N C H IOA/051/00112/2017Reserved for Order:- 12-MAR-2019Order Pronounced:- 15 -MAR-2019C O R A M

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

HON'BLE MR. DINESH SHARMA, MEMBER (ADMN.)

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Papiya Talukdar, aged about 38 years, W/o Asit Kumar Roy, resident of Binda Apartment, Flat No.201, Ghora Chowk, Jugsalai, Jamshedpur.

.....Applicant.By Advocate:- Mr. M.A.Khan.

Vs.

1. Union of India through General Manager, South Eastern Railway, garden reach, Kolkata-700 003.
2. Chief Personnel Officer, South eastern Railway, Garden Reach, Kolkata-700 003.
3. Assistant Personnel officer, South Eastern Railway, Sinni-833 220.
4. Dy. Chief Engineer (Workshop), South Eastern Railway, Sinni-833 220. ....Respondents

By Advocate:- Mr. M.K.Sinha, Addl. Standing Counsel.O R D E R

Dinesh Sharma, Member (Admn.):-The case of the applicant is that though she is senior to one Madhusudan Bouri, she is getting lesser pay than him and, therefore, this anomaly should be rectified and she should be paid correctly along with arrears and interest. She has alleged that she was appointed as Trainee Skilled Artisan in the scale of Rs.3050-4590 (RSRP) on compassionate ground in the year 2000 and later regularised as Tech. Gr. III/Fitter w.e.f. 15.10.2003. On the other hand, Madhusudan Bouri was appointed on 13.05.1999 in Group 'D', regularised as 'Khalasi' on 15.03.2000 and came to the

post of Technician Gr. III from 27.09.2003. His pay at that time was Rs.3270 while the applicant was getting Rs.3500. After that both Madhusudan Bouri and the applicant were promoted to the post of Tech. Gr. II. After 6<sup>th</sup> Pay Fixation, the applicant's pay has been fixed at Rs.11,810 while that of Madhusudan Bouri has been fixed as Rs.12,520. She has made various representations. However, the authorities have not taken any action till date. Hence, the OA.

2. The respondents have filed their written statement in which, while not differing much on facts with what the applicant has alleged, they have justified the lesser payment of salary to the applicant on ground that Madhusudan Bouri gave an option to have his pay fixed at the time of pay revision due to 6<sup>th</sup> Pay Commission w.e.f. 08.12.2006, while, on the other hand, the applicant got her pay revised w.e.f. 01.01.2006. According to the respondents, this is the reason for the difference in pay and it cannot be rectified since the anomaly has occurred due to the applicant not exercising her right to give option from a more appropriate date. They have also denied the applicant being senior to Madhusudan Bouri, though they have accepted that her name has appeared inadvertently by mistake twice above in the seniority of Technician Gr. III.

3. The applicant has filed a rejoinder in which she has mentioned that there was delay in regularising her appointment as Trainee Skilled Artisan Gr. III. Her period of training was three years i.e. from 16.08.2000 to 15.08.2003. If she was regularised on the date of completion of her training, even her date of regularisation would

have been at a time before Madhusudan Bouri got in this grade. She also filed by way of supplementary affidavit copies of recent seniority list of Technicians Gr. I category issued on 11.09.2018 where her name has again been shown above that of Madhusudan Bouri.

4. After having gone through the pleadings and hearing the counsels of both the parties, it is clear that though the applicant was in a Group 'C' service much before Madhsudan Bouri was appointed to this grade, she has been getting less than Bouri because of what the respondents have alleged as a mistake in giving her option. It is clear that she was getting higher pay as Technician Gr. III and by that logic when both of them got promoted to Technician Gr. II on the same date, she should have got higher pay than Shri Bouri. Even the written statement filed by the respondents shows that she was getting higher pay than Shri Bouri till she got promoted. It is also very clear from the seniority list published by the respondents department that she has always be shown to be senior to Shri Bouri and this fact continued even after the filing of this OA and their written statement in which they have alleged it to be an inadvertent error.

The applicant also brought to our notice the circulars of Railway Board bearing RBE No. 28/2010 and 158/2018 and have also brought to our notice a letter dated 06.08.2016 in which the department had sought an internal clarification about not having sought the option for re-fixation of pay from the applicant earlier.

5. The communications quoted above state the rules regarding regulating the seniority of the railway servants and provide for stepping up of the basic pay in certain cases. We have gone through these rules. Though these are mainly in the context of stepping the pay up when a directly recruited junior draws more basic pay than the seniors, the same principle has been extended even in cases where no actual direct recruitment took place. Thus, these rules do not provide us any guideline to extend the principle of stepping up in this case where the issue is not between a promotee and a direct recruit.

Since the difference in pay has happened, is clearly explained by the respondents, because of applicant not exercising the option to get her pay revised from a later, more appropriate date, and since the applicant could not produce any rule under which it could be redressed now, after such a length of time, we are unable to grant the relief claimed by the applicant, even if she is found to be senior to Shri Bouri.

6. The OA is, therefore, dismissed. No costs.

(Dinesh Sharma)  
Member (Admn.)

(Jayesh V.Bhairavia)  
Member(Judl.)

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