

Central Administrative Tribunal  
Principal Bench

O.A. No.825/2003

New Delhi this the 5th day of May, 2004

Hon'ble Shri V.K. Majotra, Vice Chairman (A)  
Hon'ble Shri Shanker Raju, Member (J)

Shri G.P. Aggarwal,  
Reservation Clerk (II),  
Northern Railway,  
Reservation Office,  
Karkardooma, Delhi-110092.

-Applicant

(None Present)

Versus

Union of India: Through

1. The General Manager  
Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
State Entry Road, New Delhi.
3. The Chief Commercial Manager (PM)  
Northern Railway, I.R.C.A. Bldg.  
New Delhi.
4. The Chief Reservation Supervisor  
Northern Railway, Railway Station,  
Delhi.

-Respondents

(By Advocate: Ms. Anju Bhushan)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

As the learned counsel of applicant did not come present despite revised call, we have proceeded to dispose of the matter by considering the respective pleadings<sup>th</sup> of the parties, perusing<sup>th</sup> the material on record and hearing the learned counsel of the respondents in terms of Rule-15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

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2. Applicant has been functioning as Enquiry Cum Reservation Clerk (ECRC) on ad hoc basis. In disciplinary proceedings, applicant was imposed a minor penalty of with-holding of increment temporarily for one year on 12.9.1991. It is claimed that applicant was entitled for regularisation and promotion from the date his junior had been promoted in accordance with rules. The period of penalty expired on 7.12.1992 and the applicant was regularised w.e.f. 1.6.1993. Applicant has contended that imposition of minor penalty should not have affected regularisation of the applicant and he should have been paid difference of wages for the period 1.4.1990 to 7.12.1992 when he had worked as Enquiry-cum-Reservation Clerk from the date his colleagues and juniors were regularised. Applicant has sought direction to respondents to fix his pay in grade Rs.1200-2040 after regularising the period from 1.4.1990 to 13.12.1992 and sanctioning officiating allowance for the said period.

3. On the other hand, learned counsel of respondents stated that 80 Coaching Clerks who were officiating as Enquiry Cum Reservation Clerks and were fulfilling the condition of three years of ad hoc service and were not facing D&AR/Vigilance were regularised as ECRC in grade Rs.1200-2040 w.e.f. 1.4.1990. As D&AR case was pending against the applicant, he was not regularised. After conducting D&AR enquiry, he was awarded punishment of reduction by one stage in same scale for a period of two years with

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cummulative effect. On appeal, this punishment was reduced to W.I.T for one year. He was granted officiating allowance for the period from 17.1.1984 to 31.3.1990. He was regularised as Enquiry Cum Reservation Clerk w.e.f. 14.12.1992. He was not paid officiating allowance from 1.4.1990 to 13.12.1992 as he was facing major penalty charge sheet during this period. In this behalf respondents have relied upon PS No.5578 dated 4.3.1972. Basically, this Railway Board's letter relates to crossing of Efficiency Bar stage by Railway Servants involved in Vigilance/Disciplinary cases. It is stated therein that in cases where minor penalty actually imposed is one of with-holding of increment and who has not been suspended, the increments above the Efficiency Bar should be granted on due date. It is further stated as follows:-

"Where a railway servant, whether under suspension or not is proceeded against for imposition of a major penalty and is subsequently exonerated completely or is awarded only a minor penalty, the same procedure as indicated in respect of employees, proceeded against for imposition of a minor penalty, should be followed".

4. The import of these provisions is that as the applicant had been imposed a minor penalty only in disciplinary proceedings against him, the same procedure <sup>as</sup> ~~had~~ followed in the case of grant of increments above the Efficiency Bar has to be followed here also. Increments above the Efficiency Bar have to be granted on due date. It implies that imposition of a minor penalty would not visit any adverse effects in the case of increments/pay and allowances. In the

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present case, applicant had not been granted officiating allowance for the period from 1.4.1990 to 13.12.1992 in grade Rs.1200-2040 as disciplinary proceedings were pending against the applicant in which ultimately a minor penalty was imposed upon him. The spirit of PS No.5578 does not permit the respondents to deny the applicant officiating allowance for the period from 1.4.1990 to 13.12.1992 when he functioned as Enquiry Cum Reservation Clerk. In our view, applicant is entitled to fixation of his pay in grade Rs.1200-2040 by taking into consideration the period from 1.4.1990 to 13.12.1992 when he had functioned as Enquiry Cum Reservation Clerk and also <sup>To be</sup> the benefit of officiating allowance for the said period.

5. In the result, OA is allowed and respondents are directed to fix applicant's pay in grade Rs.1200-2040 by taking into account the period from 1.4.1990 to 13.12.1992 when the applicant had functioned as Enquiry Cum Reservation Clerk by sanctioning officiating allowance for the said period. Respondents are further directed to pay the consequential benefits to the applicant within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju  
(Shanker Raju)  
Member (J)

V.K. Majotra  
(V.K. Majotra)  
Vice Chairman (A)  
5.5.04

cc.