
(2025) 04 CAT CK 0368

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 865 Of 2015

Jiledar

APPELLANT

Vs

Union Of India Through General Manager, North Central
Railway, Subedarganj, Allahabad & Ors.

RESPONDENT

Date of Decision : 02-04-2025

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2025) 04 CAT CK 0368

Hon'ble Judges : Rajiv Joshi, Member (J); Anjani Nandan Sharan, Member (A)

Bench : Division Bench

Advocate : Amrendra Kumar Srivastava, M K Srivastava, Vinod Kumar Pandey

Final Decision : Dismissed

Judgement

Anjani Nandan Sharan, Member (A)

1. Heard Shri Amrendra Kumar Srivastava, learned counsel for the applicant and Shri Vinod Kumar Pandey, learned counsel for the respondents.

2. The instant Original Application has been filed u/s 19 of the Administrative Tribunal Act, 1985 seeking following reliefs :-

.... 8(i) to issue a writ, order or direction quashing the letter dated 12.12.2014, by which my proper fixation of pay are not made, which is purely illegal action taken by respondents.

(ii) to issue a writ, order or direction in the nature of mandamus commanding the respondents to give effect for making proper fixation of pay and arrears may be given.

(iii) to issue any other suitable writ, order or direction as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

(iv) to award the costs of the original application in favour of the applicant.

3. The brief facts of the case as narrated by the applicant, are that the applicant was appointed as Gang Man of Engineering Department on 23.01.1979 in the Scale of Rs. 200-250. On 28.06.1982, he was promoted to the post of Shunt Man in Operating Branch in the Scale of Rs. 260-400. He was again promoted to the post of Shunt Man-I on 01.08.1986 in the Scale of Rs. 950-1500. He worked w.e.f. 28.06.1982 till retirement on 31.01.2014 in operating Branch. It is further stated that respondents arbitrarily had given pay scale and grade pay to some juniors namely Hari Prakash and Shiv Shanker who were junior to the applicant but, after getting pay scale and Grade Pay, they became senior. Respondents have also given Grade Pay of Rs. 2800 to many juniors and one Shri Narain Singh under ST category. The applicant was promoted to the post of Shunting Master to Grade Pay of Rs. 2400 before one year of retirement under M.A.C.P. Scheme while many employees got the aforesaid Grade Pay before 17 years. The applicant had also completed course Ft.p.-6 for promotion to post of Shunting Master-II but the respondents did not consider this and never provided correct pay to the applicant. The respondents has also not paid arrears of monthly salary and travelling allowance for October 2012 till date. Aggrieved by this, the applicant approached this Tribunal.

4. In the counter affidavit filed on behalf of the respondents, it has been mentioned that the applicant's department was changed on his request accepting the condition of junior grade and bottom seniority. The post of Shunt Man Grade-I in scale of Rs. 260-400/- was filled up through test based on seniority-cum-suitability for which Shunt Man Grade-II in scale of Rs. 200-250/- having completed two years of service are eligible. There is no provision of direct recruitment for the aforesaid post. The pay Scales of Rs. 260-400/-, Rs. 950-1500/- and Rs. 3050-4590/- are pay scales of same post modified by 3rd, 4th and 5th Pay Commission respectively which the applicant has wrongly described as promotion. It is further stated that the applicant was promoted under restructuring on the post of Shunt Man Grade-I in scale of Rs. 260-400/- w.e.f. 01.08.1982. The respondents have contradicted the claim of seniority by the applicant and have submitted the following relevant description of seniority list:-

Sl. No.

Seniority Serial No.

Name

Date of

Appointment

Date of

Promotion

as Shunt

Man-I

Description

1

39

Hari

Prakash

17.03.79

01.08.82

Lien-

Operating

Department

2

69

Shiv

Shankar

21.11.78

01.08.82

Came on

change of

Department

3

93

Jiledar

02.01.78

01.08.82

Came on

change of

Department

5. It has also been submitted that the initial appointment of the applicant was made in Engineering Department. Therefore, the same Department is mentioned

on the front page of the Service Book. The names of changed post and promoted post are also mentioned on the front page. The applicant was posted in Operating Department at the time of retirement. Shri Hari Prakash and Shri Shiv Shankar being senior to the applicant had got promotion as Shunting Master Grade-II in Grade Pay- 2400/- in the year 2004-2005 and therefore, were given benefit of Grade Pay-2800/- under MACP on completion of 30 years of service. The applicant got status promotion as Shunting Master (GP-2400/-) on 23.01.2013 which is correct according to real seniority and the applicant had already got Grade Pay of Rs. 2000/- and Grade Pay of 2400/- on 01.09.2008 under second and third MACP. The applicant has mentioned about promotion of his junior Shri Narayan Singh who has been given promotion under ST Category under quota because no direction with regard to the reservation in promotion has been given by Ministry of Personnel and Training to Central Departments in the light of decision of Hon'ble Court. The applicant has been given benefit of GP-2000/- and GP-2400/- simultaneously under MACP w.e.f. 01.09.2008 and fixation of pay is as follows:-

The applicant passed promotion course of Shunting Master in November, 2012 and immediately thereafter, he was given promotion on vacancy in January, 2013 as Shunting Master Grade-II gp-2400/-. Since the applicant had already been given benefits of Grade Pay of 2000/- and 2400/- under MACP w.e.f. 01.09.2008, therefore, promotion given in January, 2013 was status promotion and there was no financial upgradation and only name of post was changed. In view of above, it has been submitted that claim filed by the applicant is wholly unsustainable in the eyes of law and the same is liable to be dismissed.

6. Rejoinder has been filed on behalf of the applicant wherein the applicant has reiterated his averments and has submitted that he joined before many juniors as stated in the Original Application and it can be seen that two juniors have been wrongly promoted whereas the applicant would have been promoted earlier. He has further submitted that in reply to application under RTI the applicant was informed that Grade Pay of Rs. 2800/- is shown w.e.f. 01.09.2008 whereas the respondents are saying that the applicant got Grade Pay of Rs. 2400/- on 23.01.2013.

7. Submissions of learned counsels for the parties have been heard and records have been gone through.

8. The facts of the case are that the applicant has retired on 31.01.2014. His grievance is that he has not been given proper fixation of pay and his juniors were given benefit of promotion and upgradation under MACP. He has stated that he has been drawing less amount of monthly pension due to improper pay fixation by the respondents. The respondents have denied the submissions/averments of the applicant and given details of his promotions and pay fixation of the applicant during his career.

9. In the written submissions submitted on behalf of the applicant, it has been

stated that the applicant is senior in services to Shri Hari Prakash and Shri Shiv Shankar on the basis of date of appointment.

10. In the written submission submitted on behalf of the respondents, it has been submitted that the seniority of the applicant has been fixed correctly and the applicant retired after attaining the age of superannuation on 31.01.2014. It has also been stated therein that during the entire period of service, he has not raised any grievance for fixation as there has been no illegality in pay fixation and after retirement he prayed for fixation of his pay which is not permissible in law.

11. It appears to be a fact that the applicant has raised the issue of his improper pay fixation and denial of promotion on account of incorrect seniority list after his retirement whereas the respondents have mentioned that his pay fixation/promotion has been done correctly during his service. The Apex Court in its judgment passed on 27.11.2024 in case of Government of West Bengal & ors. vs. Dr. Amal Satpathi & ors. in Civil Appeal bearing Diary No.43488 of 2023 has held that no retrospective seniority can be given to an employee as that might adversely affect others. The relevant paras of the aforesaid judgment are quoted as under:-

.... "19. It is a well settled principle that promotion becomes effective from the date it is granted, rather than from the date a vacancy arises or the post is created. While the Courts have recognized the right to be considered for promotion as not only a statutory right but also a fundamental right, there is no fundamental right to the promotion itself. In this regard, we may gainfully refer to a recent decision of this Court in the case of Bihar State Electricity Board and Others v. Dharamdeo Das , wherein it was observed as follows:

"18. It is no longer res integra that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself.

Furthermore,

"20. In State of Bihar v. Akhouri Sachindra Nath¹⁵, it was held that retrospective seniority cannot be given to an employee from a date when he was not even borne in the cadre, nor can seniority be given with retrospective effect as that might adversely affect others. The same view was reiterated in Keshav Chandra Joshi v. Union of India.

20. In the instant case, it is evident that while respondent No. 1 was recommended for promotion before his retirement, he could not assume the duties of the Chief Scientific Officer. Rule 54(1)(a) of the West Bengal Service Rules, clearly stipulates that an employee must assume the responsibilities of a higher post to draw the corresponding pay, thus, preventing posthumous or

retrospective promotions in the absence of an enabling provision.”

21. While we recognize respondent No.1’s right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No. 1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”

12. In view of the above discussions, no relief is permissible to the applicant in respect of his promotion and seniority at this belated stage after his retirement. The applicant could have got the issue of his seniority and promotion resolved during his service period. He has retired on 31.01.2014 on attaining the age of superannuation. The issue of seniority and promotions cannot be reopened now. Therefore, the instant Original Application is liable to be dismissed and is dismissed being devoid of merit.

13. Pending M.A., if any, stands disposed of, accordingly. No order as to costs.