

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 10634/2005**
% **Date of Decision: 23rd September, 2009**
THE DIVISIONAL PERSONNEL OFFICER PETITIONER
! Through: Mr. Rajesh Kumar, Advocate
VERSUS
\$SHRI PRATAP RAI RESPONDENT
^ Through: None.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

The management of Northern Railway, in this writ petition, seeks to challenge an order under Section 33(C)(2) passed by the Central Government Industrial Tribunal, New Delhi directing the petitioner to calculate the retiral benefits admissible to the respondent workman at basic pay of Rs.1,540/- and make payment of arrears to him.

2 The respondent was working as a Goods Clerk with Northern Railway at the time of his superannuation on 31.03.1992. He was working in the pay scale of Rs.1,200-2,040/-. He was awarded punishment of reduction of his pay in the lower grade of Rs.975-1,540/- for a period of one year vide order of the competent authority dated 20.03.1989 w.e.f. 28.03.1989. This order of punishment was to come to an end after expiry of one year which expired on 27.03.1990. Thereafter the respondent was to revert back to his original pay scale of Rs.1,200-2,040/- in which he was working at the time of punishment. The basic pay of the respondent

prior to punishment imposed on him was Rs.1,650/- in the pay scale of Rs.1,200-2,040/-. The plea of the petitioner management is that the respondent remained absent from duty w.e.f. 01.05.1989 till the date of his retirement i.e. 31.03.1992. The impugned award does not deal as to how the period of alleged absence of the respondent from 01.05.1989 till 31.03.1992 was dealt with by the petitioner. There is nothing on record to show as to whether the alleged absence of the respondent was authorized or unauthorized. There is also nothing on record to show whether the respondent had any leave either medical or earned leave to his credit at the time of his superannuation or before he allegedly absented himself from duty. In law, the petitioner management was bound to revert the original pay of the respondent after expiry of the period of punishment which expired on 27.03.1990. Be that as it may, since the workman has not filed any challenge against the impugned award, this Court does not consider it necessary to go into the question as to whether the respondent was entitled for a higher pay in the pay scale of Rs.1,200-2,040/- at the time of his superannuation. What the Tribunal has granted to the respondent is the end of basic pay of lower grade for the purpose of computation of his retiral benefit. Admittedly, the basic pay of the respondent at the time he was placed in the lower grade of Rs.975-1,540/- on account of punishment imposed on him vide order of the competent authority dated 20.03.1989 w.e.f. 28.03.1989 was Rs.1,510/-. Even if the respondent was to continue in the lower grade till the time of his retirement, he was at least entitled to annual increments in the said lower grade of Rs.975-1,540/-. Had he got these three increments, his basic pay at the time of his superannuation on 31.03.1992 would not have been less than what has been ordered by the Tribunal for the purpose of computation of his retiral benefits.

3 In view of what has been stated above, I do not find any perversity or illegality in the impugned award that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. This writ petition therefore fails and is hereby dismissed.

SEPTEMBER 23, 2009
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S.N.AGGARWAL, J