

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

918 WRIT PETITION NO. 5005 OF 2013

ASHOK DEVCHANDRAO SHIRNAME AND ANOTHER
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for Petitioners : Mr. Y.P. Deshmukh h/f. Mr. H.A. Joshi
Advocate for Respondents 1 to 3 : Mr. M.N. Navandar

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**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

DATED : February 28, 2018.

ORDER : [PER T.V. NALAWADE, J.]

1. The petition is filed under Article 226 of Constitution of India for seeking direction against the respondent, Central Railway to restore the pay of the petitioners which was as on 1.7.2006 and set aside the subsequent order made by respondent on 9.7.2008 due to which the pay was refixed. After making amendment in the petition, additional relief is claimed for setting aside the decision given by the Central Administrative Tribunal ('C.A.T.' for short) in O.A. No. 416/2008. Both the sides are heard.

2. The submissions made and the record show that one petitioner was working as Junior Clerk and he was appointed in

the year 1972. Other petitioner was appointed initially in the year 1986 as Junior Shop Superintendent. In the year 1993 ad-hoc promotion was given to both of them by immediate superior officer. Some breaks were also given and during breaks, they were reverted back to the original cadre. Subsequently, by order dated 11.2.1995 regular promotions were given to both of them to aforesaid posts. While fixing the pay in promotional posts, the office committed mistake and gave one additional increment in favour of petitioners for the service rendered as ad-hoc employees on promotional posts. This mistake was corrected. Recovery was ordered in respect of excess amount paid. This order was challenged before the C.A.T. and the C.A.T. has prevented recovery of the excess amount paid to the petitioners, but the C.A.T. has upheld the decision of the authority by holding that in respect of *ad-hoc* period, the petitioners are not entitled to get any increment.

3. The learned counsel for petitioners placed reliance on one order dated 21.3.1996. In this order, it is mentioned that A.G.M. had accorded *post facto* sanction for regularisation of the *ad-hoc* promotions given to present petitioners and few other employees. The learned counsel for petitioners submitted that in

view of this order, their services on *ad-hoc* posts were regularised and so, they are entitled to get increment in respect of that period also. This submission is not at all acceptable. The correspondence of higher authority with immediate superiors of the petitioners dated 9.7.1998 shows that the authority had questioned the immediate superior of the petitioners in respect of the act of giving promotions, though on *ad-hoc* basis in the year 1993-94. This was done when the petitioners Shriname and Sharma had raised grievance about the correction made in pay fixed. The authority observed that the office has rightly corrected the mistake. The breaks which were given by the office were also considered.

4. The aforesaid record and submissions show that when the immediate superior of the petitioners had no power to issue order of even *ad-hoc* promotion on the post of Superintendent, such orders were issued in the year 1993 and 1994 in favour of petitioners. The petitioners must have received pay in respect of that period of the post of Superintendent and so, for technical purpose this appointment was regularised. That does not mean that it was regularisation on the permanent post of Superintendent with effect from the first date of *ad-hoc*

appointment. The learned counsel for petitioners submitted that as per the scheme and the guidelines issued, when vacant post is there, *ad-hoc* basis promotions are not required to be made. This Court is not expected to go into the details of that aspect in view of the aforesaid circumstances. Basically, the appointments were on *ad-hoc* basis and they were given with breaks. Due to these circumstances, no increment could have been given after giving regular promotions to the petitioners in respect of the period for which they had worked on *ad-hoc* basis. This Court holds that it is not possible to grant any relief to the petitioners. In the result, the petition stands dismissed.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

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