



2025:DHC:9864-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10.11.2025

+ W.P.(C) 6003/2023 & CM APPL. 46956/2025
ABHAY KUMAR

.....Petitioner

Through: Mr.Ashim Shridhar and
Ms.Archy Gupta, Adv.

versus

DIVISIONAL RAILWAY MANAGER & ANR.

.....Respondents

Through: Mr.Virender Pratap Singh
Charak, Ms.Shubhra Parashar
and Mr.Dipesh Chaudhary,
Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 12.03.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, the 'Tribunal') in O.A. No.1547/2020, titled *Abhay Kumar v. Divisional Railway Manager/P & Anr.*, filed by the petitioner herein, to the limited extent that it allows the benefit of pay protection to the petitioner only prospectively and without any arrears.

2. The petitioner was initially appointed as Engineer (Mechanical)



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with the National Thermal Power Corporation (in short, 'NTPC') on 04.08.2009 and had been subsequently confirmed in the pay scale of Rs.24900-50500 with effect from 04.08.2010. Thereafter, he was appointed as a Direct Recruit in the Indian Railways Service Mechanical Engineers (in short, 'IRSME'), through UPSC Engineering Services Examination, 2009, as a probationer on 28.02.2011. Upon completion of his probationary training, the petitioner sought pay protection *vide* his application dated 08.03.2013, followed by several reminder letters. However, the respondent no.1, by an Order dated 08.09.2020, rejected his representations reiterating that the benefit of pay protection was not available to candidates selected through an open competitive examination and was confined only to the appointments made through an interview. The petitioner challenged the said Order by way of the above O.A.

3. The learned Tribunal placing reliance on the Judgment of this Court *inter alia* in ***Sanjog Kapoor v. Union of India & Ors.***, (Judgment dated 20.04.2007 passed in W.P.(C) 5518/2004) in its Impugned Order found merit in the challenge of the petitioner. Accordingly, the learned Tribunal set aside the Order dated 08.09.2020 passed by the respondents, by which the petitioner's plea for pay protection had been rejected. The learned Tribunal, however, restricted the benefit of pay protection to the petitioner prospectively, directing that the same shall not result in payment of any arrears.

4. We may herein note that the respondents had challenged the said findings of the learned Tribunal before this Court by way of



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W.P.(C) 3338/2022, titled *Union of India & Anr. v. Abhay Kumar*, which was dismissed by this Court *vide* its Judgment dated 23.02.2022 (2022:DHC:761-DB), *inter alia* observing that the respondents should not have dragged the petitioner to litigation in view of the earlier judgments of this Court.

5. The learned counsel for the petitioner submits that the learned Tribunal has given no reasons for restricting the relief prospectively. He further submits that the petitioner had immediately approached the learned Tribunal on rejection of his representation by the respondents by their order dated 08.09.2020 and the consequent denial of pay protection. He submits that the said denial was contrary to the judgments of this Court.

6. The learned counsel for the petitioner submits that the petitioner is entitled to be paid the arrears of pay, however, he waives his claim to any interest on the said amount.

7. On the other hand, the learned counsel for the respondents submits that the learned Tribunal has rightly restricted the relief to the petitioner prospectively and without any arrears. He submits that as the Writ Petition filed by the respondents against the said Impugned Order stands dismissed by this Court, no further relief can now be granted to the petitioner.

8. We have considered the submissions made by the learned counsels for the parties.

9. In the present case, the petitioner had, immediately on his confirmation with the respondents, made representations seeking the



grant of the benefit of pay protection. The said representations were kept pending with the respondents and were eventually rejected by the Order dated 08.09.2020, which was immediately thereafter challenged by the petitioner by way of the above O.A.. The rejection of the representation by the respondents in itself was flawed and against the Judgment of this Court in **Sanjog Kapoor** (supra), which was later followed by this Court in **Nagendra Kumar Jha v. Union of India & Anr.** (Judgment dated 06.01.2016 in W.P.(C) 8660/2005). This Court, while dismissing the Writ Petition filed by the respondents in challenge to the Impugned Order, has *inter alia* observed as under:

“4.1. In this case, as noticed hereinabove, there were two judgments of two Division Benches concerning the DoPT’s O.M. dated 10.07.1998. Therefore, the circular dated 12.02.2001 could not have furthered the cause of the petitioners and yet a petition was filed.

4.2. This is an aspect which the legal advisors of the petitioners should have taken into account before seeking to drag the respondent into the litigation arena.

4.3. We would have imposed heavy costs on the petitioners had the respondent joined the proceedings.

5. Mr Singh would do well to place the judgment passed by us today before the officer who was concerned with sanctioning the institution of the present writ petition.”

10. The learned Tribunal, in the Impugned Order, while restricting the relief to the petitioner, has given no reasons for the same.

11. In the peculiar facts of the present case, we find no reason for restricting the relief to the petitioner prospectively.



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12. Accordingly, we set aside the Impugned Order to the limited extent that it restricts the relief for arrears of pay and grants pay protection to the petitioner only prospectively. The petitioner shall be released the arrears of pay, granting him the pay protection in terms of the Order passed by the learned Tribunal from the date that it became due, within a period of eight weeks from today. However, the petitioner shall not be entitled to any interest on the said amount.

13. The petition, along with the pending application, is disposed of in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

NOVEMBER 10, 2025/ns/Yg