

Central Administrative Tribunal  
Principal Bench

RA 156/99  
in  
OA 69/98

71

New Delhi this the 27 th day of September, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Union of India through  
The General Manager,  
Central Railway, Mumbai.

... Applicants.

(By Advocate Shri H.K. Gangwani)

Versus

1. Shri R.S. Jolly,  
S/o late Shri Sohan Singh Jolly,  
Retd. TFR, Central Railway,  
R/o 51, Hemkunt, Opp. Nehru Place,  
New Delhi-110019.
2. Shri S.P. Pathak,  
Ex. JDI, Central Railway,  
Agra Cantonment,  
R/o C-5D, Basant Lane Rly. Quarters,  
New Delhi-110055.
3. Shri B.R. Kapoor,  
S/o Shri Desraj Kapoor,  
Retd. Chief Progress Supervisor,  
Central Railway,  
R/o C-4D, Basant Lane, Pahar Ganj,  
Near Karnail Singh Stadium,  
New Delhi.

... Respondents.

(By Advocate Shri B.S. Mainee)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan. Member(J).

Both learned counsel have been heard at some length on RA 156/99. Both parties have also submitted written submissions. Shri H.K. Gangwani, learned counsel for the review applicants has relied on the judgement of the Supreme Court in M.R. Choudhary & Ors. Vs. Union of India & Ors. (1999 (3) AI SLJ 171).

2. The order against which the review application has been filed has been pronounced on 6.5.1999 in OA

B.

73

explanation need not be given in the Review Application but has submitted during the course of arguments that the same would be referred to when OA 69/98 is reheard.

4. Shri B.S. Mainee, learned counsel has very vehemently opposed the prayer in the Review Application stating that there is no error. He has submitted that all the documents which are now produced by the respondents to show the "correct" pay of Shri B.D. Singh and of the applicants at the relevant time are false and fabricated. He has also submitted that these documents could have been produced by the review-applicants at the time when the O.A. was disposed of by order dated 6.5.1999 which they have not done and he has, therefore, prayed that the Review Application may be rejected.

5. As mentioned above, the Tribunal's order dated 6.5.1999 deals with the stepping up of pay of the applicants wherein they have claimed parity of pay with Shri B.D. Singh, who was junior to them. After perusal of further documents produced by the respondents in the Review Application, in which it appears that at some points of time Shri B.D. Singh was not getting a higher pay than the applicants, I am of the view, following the observations of the the Supreme Court in M.R. Choudhary's case (supra) that there has been some mistake in submission of the correct documents by the respondents. On that basis the Tribunal had passed the order dated 6.5.1999 for stepping up of the pay of the applicants.

72

69/98. In that order after referring to the bifurcation of the Jhansi Division in Bhopal Division of the Railways, it has been stated that one Shri B.D. Singh came to be allotted to Bhopal Division and the essential point in time is the date of his promotion. Based on the then available records before the Tribunal, the conclusion was that the applicants have made out a case for stepping up of their pay relative to the pay of their junior Shri B.D. Singh.

3. The present review applicants (original respondents) have submitted that there has been a bona fide mistake in not placing the correct and relevant documents before the Tribunal before the order dated 6.5.1999 was passed. Shri Gangwani, learned counsel has submitted a detailed chart showing the pay fixation of Shri B.D. Singh and the applicants at various relevant times. According to him, an error<sup>has</sup> crept in on the assumption that Shri B.D. Singh at the relevant date, 1.1.1996 was drawing a higher pay than the applicants, while he has contended that the applicants were actually getting a higher pay and, therefore, they were not entitled to any stepping up of pay at par with Shri B.D. Singh. He has relied on the judgement of the Supreme Court in M.R. Choudhary's case (supra) and has submitted that as there is a bona fide mistake by the respondents not being able to produce all the relevant documents, the review application may be allowed. In the written submissions, he has correctly mentioned that the detailed

18.

74

6. Therefore, taking into account the facts of the case and in the interest of justice, the Review Application is allowed and the order dated 6.5.1999 is recalled. The other arguments on the merits of the case will be considered at the time of re-hearing the O.A.

7. In view of the above, list OA for hearing on 25.10.2000.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member (J)

'SRD'

copy of order issued  
to both parties  
service avoided