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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.2083/96

WITH

O.A.NO.2059/96

New Delhi, this the 13th day of March, 2000.

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, V.C. (J)

HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

QA-2083/96

1. Sunil Kumar Dixit 29/19, Railway Colony, Kishan Ganj, Delhi-7.
 2. C.R.Rajoria, @/5-B, Haijan Basti, New Rohtak Road, New Delhi-5.
 3. S.N.Prasad, A/13, DDA Flats, Sarai Basti, Delhi.
 4. Anirudh Prasad, 1026, Bhole Nath Nagar Gali No.4, Shahdra, Delhi-32.
 5. T.R.Gandhi, C-535, Vikas Puri, New Delhi-18.
 6. Mahesh Sharma, 37/3, Railway Colony, Kishan Ganj, Delhi-7.
 7. Prem Chand Ram, 1/4659/105, B New Modern Shahdra Mandeli Road, Road No.2, Gali No.5, Delhi Shahdra-32.
 8. Ashok Kumar, 115, DDA LIG Flats, Jilmil Colony, Shahdra, Delhi-95.
 9. Chander Parkash Pandey, 41/7, Railway Colony, Kishan Ganj, Delhi-7.
-Applicants

(By Advcoate: None)

VERSUS

1. Union of India, Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Ambala Cant.
4. The FA & CAO, Northern Railway, Baroda House, New Delhi.
5. The FAO, CAO (Cobsstsmction), Kashmeri Gate Delhi.

Capt

6. The Divisional Railway Manager,
Northern Railway, Moradabad (UP). Respondents
(Sh. B.K.Sinha, Sr.S.O., Deptt. Representative)

OA 2059/96

Sh. Mani Ram Shankwar, S/O Sh.
Shree Chandra, Stock Verifier,
Northern Railway, D.R.M. Office,
State Entry Road, New Delhi. Applicant.

(By Advocate: None)

VERSUS

1. Union of India, Chairman, Railway Board, Rail Bhawan, New Delhi.
 2. General Manager, Northern Railway, Baroda House, New Delhi.
 3. The Divisional Railway Manager, Northern Railway, Ambala Cant.
 4. The FA & CAO, Northern Railway, Baroda House, New Delhi.
- Respondents
(Sh. B.K.Sinha, Sr.S.O., Deptt. Representative)

O R D E R (ORAL)

Delivered by Reddy:-

None appeared on behalf of the applicants.
Deptt. Representative Sh. B.K.Sinha, Sr.S.O. is present on behalf of respondents but counsel is absent.

2. Both the cases can be disposed of by a common order because the facts are similar.

3. All the applicants have been working as Stock Verifiers in the grade of Rs.1400-2600/- since 1987. As per the Railway Board's letter dated 3.3.89, the applicants were granted three advance increments after they passed the Appendix 4-A examination. The increments so granted were treated as part of basic pay and the

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total pay inclusive of the advance/additional increments has been reckoned for calculation of ancillary allowances i.e. Dearness Allowance, House Rent Allowance, CCA etc. The said increments were not be absorbed in future increments and this policy continued till 1994. The Railway Board vide its order dated 23.11.94 also has taken the decision that three advance increments were granted to Accounts Stock Verifiers on passing Appendix 4-A Examination, should be treated as additional increment and not to be absorbed in the future increments.

4. However, by the impugned order dated 8.5.96, the Railway Board decided that three additional increments granted to Stock Verifiers in the grade of Rs.1400-2600/- for passing Appendix IV-A examination will not be treated as part of basic pay and, therefore, not to be reckoned for calculating Dearness Allowance etc. This is under challenge in these OAs.

5. The respondents have filed their counter affidavit and justified the action taken by them and stated that as a matter of policy, the Railway Board has taken the decision.

6. We have given careful consideration to the facts and circumstances of these cases.

7. The main contention raised by the applicants in the OAs is that the impugned order is vitiated for want of notice. Admittedly, no notice has been issued to the

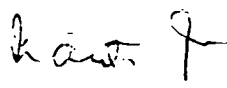
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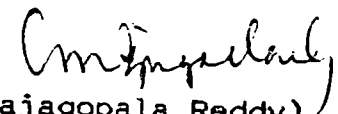
applicants before passing the impugned order. It cannot be again ~~said~~^{demanded} that by the impugned decision the applicant's Pay and Allowances are affected adversely and the respondents might take re-course to recovery of amounts already paid. The law is well settled that if any action is sought to be taken by the respondents affecting adversely the settled position in the pay and other allowance that was being drawn over a long period and also seek to recover any amounts paid as per the existing policy, notice has to be issued to the affected employees in accordance with the principles of natural justice.

8. In the circumstances, we are of the view that the impugned order which is passed without giving any notice to the applicants, is vitiated. The impugned order is, therefore, quashed.

9. The OAs are accordingly allowed. We direct the respondents to issue notice to the applicants and pass appropriate orders after considering the representations made by them in accordance with the law.

10. It should be noted that we have not expressed any opinion on the merits of the impugned order. We do not order ~~for~~^L any costs.


(Shanta Shastri)-
Member (A)


(V. Rajagopala Reddy)
Vice Chairman (J)

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