

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(5)

O.A. NO.383/1986

DATE OF DECISION : 3.4.92

SHRI BIPIN KUMAR JHA & 3 ORS. ...APPLICANTS

VS.

THE GENERAL MANAGER, NORTHERN ...RESPONDENT
RAILWAY, BARODA HOUSE, NEW DELHI

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HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANTS ...SHRI O.P. GUPTA

FOR THE RESPONDENT ...SHRI R.L. DHAWAN

1. Whether Reporters of local papers may be allowed to see the Judgement? 1
2. To be referred to the Reporter or not? 2

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicants-Shri Jha and three others are working as Senior Clerks in the Office of Chief Superintendent (Claims) having been promoted to the post w.e.f. 10.10.1985 in the pay scale of Rs.330-560. All the applicants joined as Junior Clerk sometimes in 1979 or 1980 and they have since been promoted in the quota of serving graduates.

The applicants are aggrieved by the fact that they have not been given the benefit of upgradation in view of the Memo issued by the Railway Board dt.18.6.1981 by which 13.13 % of the posts of Senior Clerk in the grade of

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Rs.330-560 is to be filled from graduate clerks with retrospective effect from 1.10.1980, but such incumbents are not to be given arrears of pay and the actual emoluments, salary etc. are to be paid from the date when such incumbents actually take over charge of upgraded post.

2. The applicants have prayed that the order issued by the Headquarters, Northern Railway dt.8.11.1985 under the signature of Deputy CPO, Headquarter fixing their pay w.e.f. 10.10.1985 (Annexure B) is ineffective, inoperative and not binding on the applicants. They also prayed that the Railway Board order dt.18.6.1981 (Annexure A) be declared ineffective and void to the extent it adds rider to the effect that actual payment of emoluments will not be made from 1.10.1980. It is also prayed that a direction be issued to the respondents that the applicants are entitled to the promotion to the post of Senior Clerks in the pay scale of Rs.330-560 against the post reserved for serving graduates and fixation of pay in those posts at Rs.323 from 1.10.1980 and seniority and flow of further promotion consequent thereto and arising therefrom the order be given to the respondents.

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3. In fact the respondents opposed the application and stated in the counter that para-3 of the Railway Board's letter dt.31.7.1981 makes it clear that the upgradation of posts in the scale of Rs.330-560 to the extent of $13\frac{1}{3}\%$ and 10% are to be filled by graduates by the limited departmental examination or by direct recruitment respectively and will be effective only when such candidates are available. As such the serving graduates are not eligible to get the proforma fixation of pay w.e.f. 1.10.1980 and the pay of the applicants has been correctly fixed in the grade of Rs.330-560 from the date they were posted as Senior Clerks grade in the Claims Branch.

4. I have heard the learned counsel of the parties at length and have gone through the record of the case. The present case is fully covered by the decision of the case given in the OA 132/86 (Surinder Kumar Sandhia & Ors. Vs. UOI). All of them were working as Senior Clerks in various departments of the Eastern Railway at Moghul Sarai and were also graduates and claimed eligibility for promotion and upgradation to the post of Senior Clerks in the pay scale of Rs.330-560 amongst the graduate clerks already

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serving to the extent of $13\frac{1}{3}\%$ of the total posts of Senior Clerks. The petitioners of that case also appeared in that selection and they were empanelled for appointment on 30.1.1985. The applicants of that case claimed on the basis of the Memo dt.18.6.1981 issued by the Railway Board, the filling up of the vacancies retrospectively w.e.f. 1.10.1980 on proforma basis.

The respondents also contested the case. The Tribunal by its judgement dt.28.10.1986 allowed the claim of the applicants for proforma fixation of their pay on the basis of para-2 of Railway Board's letter dt.10.6.1981 from 1.10.1980. That judgement has also been implemented by DRM, Eastern Railway. After that case, in the Principal Bench also in the case of Lal Chand Mishra & Ors. (OA 1039/90) decided on 14.2.1992, a similar point was raised and on the basis of the judgement in OA 132/86, the similar relief was given to the applicants of that Original Application. Thus the present application is squarely covered by the judgement of OA 132/86 as well as OA 1039/90.

5. Both the learned counsel conceded on this fact and that the present case is covered by already decided cases referred to above.

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6. The applicants in this case also claimed the arrears of pay from 1.10.1980, but that relief was not allowed to the applicants of the earlier Original Applications (OA 132/86 and 1039/90) and in view of this fact, the learned counsel for the applicant did not press that relief.

7. The application is, therefore, partly allowed and the claims of the applicants for proforma fixation of their pay (with no arrears) on the basis of para-2 of the Railway Board's letter dt.18.6.1981 w.e.f. 1.10.1980 are allowed. The respondents to implement this order preferably within a period of eight weeks from the date of receipt of this order.. In the circumstances, the parties shall bear their own costs.

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3.4.92

(J.P. SHARMA)
MEMBER (J)

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