

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI

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REGN.NO. O.A.218/87.

DATE OF DECISION: 24th August, 1992.

Shri Nageshwar & Ors.

... Petitioners.

Versus

The General Manager,
Northern Railway and
Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioners.

... Shri B.L. Madhok,
proxy for Shri B.S.
Mainee, Counsel.

For the Respondents.

... Shri P.S. Mahendru,
Counsel.

JUDGEMENT(ORAL)

(Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioners in this case are all Air-Conditioning Coach Mistries. They are aggrieved by the impugned order dated 4.11.1986 (Annexure-I) by which the grant of special pay made in their favour on the strength of the order dated 1.6.1984 (Annexure-3) was withdrawn. The Ministry of Railways on consideration of proposals made by the Staff Side in the Departmental Council (JCM) decided that a special pay of Rs.35/- per month may be granted to such of the Train Lighting Mistries who are either in independent charge of gangs or are supervising highly skilled workers. This order was communicated by Annexure 3 to be effective from 1.5.1984. The benefit of this order was granted/as to the petitioners well which was withdrawn by the impugned order dated 4.11.86 (Annexure-I) in the light of the suggestions made by the communication dated 11.2.1985 (Annexure-2) from Ram Singh, SPD(PC), Head Quarters Office, Baroda House, New Delhi.

(7)

The withdrawal of special pay in favour of the petitioners was made on the ground that it is by mistake that the petitioners have been granted the special pay even though on the strength of the order dated 1.6.1984 (Annexure-3), they were not eligible for grant of special pay.

2. The question for examination is as to whether the petitioners are entitled to grant of special pay in accordance with the letter dated 1.6.1984 (Annexure-3). The said order in clear and specific terms states that the special pay of Rs.35/- has been sanctioned to that cadre who are described as Train Lighting Mistries. The order makes it clear that the special pay of Rs.35/- may be granted to such of the Train Lighting Mistries, who are either in independent charge of gangs or are supervising highly skilled workers. Unless both the conditions are satisfied, they would not be qualified for grant of special pay of Rs.35/- per month. So far as the petitioners are concerned, they did not satisfy the first condition inasmuch as they are Air-Conditioning Coach Mistries and not Train Lighting Mistries. The order has granted relief of special pay only to that cadre described as Train Lighting Mistries and not to Air-Conditioning Coach Mistries. Hence, it is obvious that it is by mistake that the petitioners who were not eligible for grant of special pay of Rs.35/- per month, were granted special pay. The authority on discovering the mistake was competent to correct the same and set the matter right. They were justified in withdrawing the order of grant of special pay

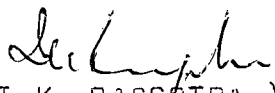
(8)

and making directions to refund the amount received by the petitioners.

3. The learned counsel for the petitioner, however, submitted that the Air-Conditioning Coach Mistries and the Train Lighting Mistries are all included in the common seniority list and they have a common channel of promotion and, therefore, they are also entitled to be granted special pay in the same manner in which the Train Lighting Mistries have been granted. The scope of this petition is limited to enforce the order (Annexure-3). There is no prayer in this petition for a direction to the Government to consider the case of the petitioners for grant of the benefit of special pay to that class of employees described as Air-Conditioning Coach Mistries. This is also not a case in which a complaint has been made about discrimination. Hence, the question of examining these aspects does not arise. We are satisfied on the materials placed before us that the petitioners who are Air-Conditioning Coach Mistries, are not covered by the order (Annexure-3) dated 1.6.1984 which restricts grant of special pay only to Train Lighting Mistries.

4. For the reasons stated above, this petition fails and is dismissed. No costs.

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240892


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN