

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
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DA NO. 2645/1990

DATE OF DECISION 13.11.91

SHRI BHIM SINGH

...APPLICANT

VS.

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

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

FOR THE APPLICANT

...SH. P.L. MIMROTH

FOR THE RESPONDENTS

...SH. N.K. AGGARWAL

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

JUDGEMENT

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

The applicant working as Confidential Assistant in the Divisional Railway Manager's Office, New Delhi, filed this application being aggrieved by non payment of the scale and salary of the grade of Private Secretary attached to the Railway Board for the period from 16.9.1987 to the period 15.9.1989. The applicant claimed the relief for direction to the respondents to pay the applicant for the aforesaid period the same scale of pay as Private Secretaries in the Railway Board's Office are being paid.

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2. Shri Himmat Singh, who was earlier the member of the Railway Board was appointed as Chairman of the Expert Committee on Re-organisation, Rationalisation and Modernisation of Indian Railways Workshops vide Railway Board's letter dt. 11.9.1987. The said Chairman of one man committee was also provided with the services of a Private Secretary and a Peon. The applicant, at that time, was working as Confidential Assistant in the grade of Rs.1400-2300/- in the Mechanical Department at the Northern Railway Head Quarters, Baroda House, New Delhi. The applicant was relieved for being posted as Private Secretary to the said Chairman, Shri Himmat Singh. The applicant joined the new post on 16.9.1987, but he was not paid the monthly salary as was being paid to Private Secretaries working in the Railway Board's office as stipulated in Railway Board's order dt. 11.9.1987. The applicant made representations, but to no effect. The applicant, therefore, later filed OA No.600-90 before the Principal Bench for getting the relief of the pay for the aforesaid period of Private Secretary to the one man Expert Committee. In this aforesaid OA, the Principal Bench of Central Administrative Tribunal, New Delhi directed the respondents to dispose of the representation of the applicant and in view of that, the impugned order dt. 16.7.90 has been passed. The impugned order rejected the claim of

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the applicant informing that there is no formal order of appointment issued to him as no post by designation as Private Secretary exists in Northern Railway any where. Further it is also conveyed to the applicant that no order was issued to the applicant to work as Private Secretary and the applicant managed to spare himself to work with one-man committee and that was against the procedure. The applicant was only working on ad-hoc basis in the grade of Rs.1400-2300/-.

3. The applicant challenged the above order as arbitrary and that the applicant belonging to SC has not been given his due wages on the basis of equal pay for equal work.

4. The respondents filed the reply and raised preliminary objections that the present application is not maintainable due to the following reasons:-

- (i) The pay-scale of Private Secretary has not been indicated in the Board's letter.
- (ii) The designation like Private Secretary is not available on the Zonal Railway.
- (iii) Thirdly, the applicant is working on ad hoc basis in the Grade of Rs.1400-2300 (RPS) and even if it is presumed that the scale of Private Secretary is higher than that of scale being received by the applicant at that time, even then he will not be entitled for this Grade because he was working on ad hoc basis and is still working on ad hoc basis.
- (iv) Fourthly, as per the rules, the double ad hoc is not permissible by the Railways.

It is further stated that P.A. grade of Rs.1400-2300/- is a non-selection post, but the employee has to pass a speed

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test prescribed for this non selection post and after passing that speed test at 100 w.p.m., the employee can be considered regular against this non selection post. The applicant was given adequate opportunity to pass the test, but he deliberately did not take the examination. Further it is stated that the letter dt. 11.8.1987 which is taken as a shelter by the applicant for payment of the grade of the PS, the scale of Private Secretary has not been mentioned or indicated. So the applicant cannot equate himself with the post of Private Secretary. The applicant, Shri Bhim Singh, it is alleged by the respondents, managed to spare himself from Mechanical Branch without the knowledge of the Personnel Branch with the fear/apprehension that the senior regular person may not be posted vice him with the Chairman. It goes to show that Bhim Singh was interested to work with the Chairman in the same capacity.

5. We have heard the learned counsel for the parties at length and have gone through the record of the case. The letter dt. 11.9.1987 relied by the applicant, though provides that the services of Private Secretary would be available, but the scale of such Private Secretary is not mentioned. So the applicant cannot claim any scale of his own choice. The preliminary

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objection raised by the respondents, therefore, has some force. The applicant during his tenure of work with one-man Expert Committee should have got the matter settled or would have opted to go ^{back} to the Mechanical Branch which he has not done which clearly goes to show that the applicant was interested in working with Shri Himmat Singh, one man's body for the reasons best known to him.

6. Secondly, there is no order filed by the applicant by which he was appointed as Private Secretary to the only one-man Expert Committee. The note dt. 22.9.1987/ goes to show that Shri Bhim Singh, Stenographer in grade (not mentioned) is released from Mechanical Department to attend the duties with Himmat Singh, Chairman, one-man Expert Committee mentioned in the Railway Board's above letter dt. 11.9.1987. This also does not show that the applicant was released to work as Private Secretary, it mentions that he was released to attend the duties which means that the applicant has to discharge the duties in the same manner as he was discharging in the Mechanical Branch. The applicant, therefore, can have no grievance as at no point of time, he has been designated as Private Secretary to one-man Expert Committee.

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7. The applicant has raised the question of equal pay for equal work and has referred to a number of decisions* in the application itself. In fact, the principle of equal pay for equal work is not at all attracted in the present case. The applicant is a Stenographer and he has worked as Stenographer. There is no order on the record to show that the applicant was appointed as a Private Secretary to the one-man Expert Committee. The applicant wants to draw inference that since he was discharging duties with Shri Immat Singh, Chairman, one-man Expert Committee and as the Board's letter dt. 11.9.1987 shows that one Private Secretary will be provided to the Chairman, so he has designated himself as Private Secretary and by this designation conferred by him on himself, he wants that he should be paid the pay of the Private Secretary attached to the Railway Board. Firstly, he has not given the rules which governed the appointment of the Private Secretary attached to the Railway Board and secondly whether he is equally qualified to hold that post. The respondents in their counter have said that the applicant has to get a minimum speed of 100 w.p.m. and has to pass an examination which the applicant has avoided. In the rejoinder, filed by the applicant, he has not said even a

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1. Adhyapal Singh Vs. State of Haryana -T 1988 (3) 172
2. Inder Singh Vs. Vyas Mani Sharma -T 1987 (3) SC 384
3. Jai Pal Vs. State of Haryana-AIR 1988 SC 1505
1988, (3) SC CC 354
4. Paritosh Kanti Bal Vs. UOI-1989 (5) SLR 535.

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single word that he has passed the examination or that he was not allowed to appear in the examination. Thus the principle of equal pay for equal work does not apply.

3. In view of the above discussion, we find that the application is devoid of merits and is dismissed leaving the parties to bear their own costs.

J. P. Sharma
(J. P. SHARMA)

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MEMBER (J)

D. K. Chakravorty
(D. K. CHAKRAVORTY)
MEMBER (A) 13/11/491