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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 449/90

New Delhi this the 10th day of June, 1994.

Shri J.P. Sharma, Member(J).

Shri B.K. Singh, Member(A).

1. Shri Mangilal Rastugi  
S/o Shri Mohan Lal Rastugi.
2. Shri Ram Saran Sharma,  
S/o Shri Ranchhor Sharma.
3. Shri Madho Kapur,  
S/o Shri Radha Kishan Kapur.
4. Shri Narender Nath Chawla  
S/o Shri Krishan Chand.
5. Shri Badam Singh,  
S/o Shri Krishan Lal.

(All Accounts Assistants under  
Senior Accounts Officer,  
Foreign Traffic Accounts Office,  
Western Railway, Kishan Ganj,  
Delhi)

..Applicants.

By Advocate Shri B.S. Maine.

Versus

1. The Secretary,  
- Ministry of Railways,  
Rail Bhawan,  
New Delhi.
2. The Financial Adviser and  
Chief Accounts Officer,  
Western Railway,  
Church Gate,  
Bombay.
3. The Dy. Chief Accounts Officer(TA),  
Western Railway,  
Ajmer.

..Respondents.

By Advocate Shri Romesh Gautam.

ORDER (ORAL)

Shri J.P. Sharma.

The applicants are aggrieved by the para 3(iii)

of the Railway Board's order dated 3.2.88 a copy of which has not been annexed by the applicants and inadvertently appears to have been filed <sup>another annexure</sup> on record. In the accounts side, the lowest <sup>clerk</sup> grade is grade II. The next higher level is grade I for which it is necessary to pass the Appendix II A examination. The applicants have passed such an examination but subsequently this rule was relaxed and it was directed that promotion to 25% of the vacancies of Clerk Grade I could be made for non-qualified candidates and a ratio of 3:1 was to be followed in promotion. The grievance of the applicants is that those unqualified candidates who were promoted happened to be senior to the applicants and by virtue of seniority, they were placed above the applicants in the accounts side. However, when there was a short-fall of vacancy either the person returning from ~~leave or deputation on~~ <sup>from</sup> short-term basis or otherwise, the applicants who were qualified were reverted to the Clerks Grade II. They made representations to the railway board pointing out this unfairness inasmuch as unqualified candidates have been retained on their post while those who have qualified and were competent and ~~declared~~ <sup>declined</sup> so, were reverted. The railway board, therefore, issued the impugned order dated 3.2.88 granting the benefit to the applicants. The case of the applicants is that this order of the railway board restricting the payment from 1.1.88 is unjust and this application has been filed for the grant of the relief that the aforesaid letter of the railway board dated 3.2.88 as regards para 3(i) and (iii) be quashed with the direction to the respondents to give benefit of arrears for the period during which the applicants were reverted as Clerks Grade II. They have also claimed further consequential benefits.

2. The respondents have contested this application and opposed the grant of the relief. However, the factual

position is admitted to the respondents that those who are unqualified and promoted towards short-term vacancies have not been reverted while the applicants who were qualified in the Appendix II A examination have been reverted. But this has already been rectified by the aforesaid order of the railway board dated 3.2.88 and the arrears were allowed only after 1.1.88 and not prior to it. There is no illegality in this order. The applicants have also been given promotion.

3. The applicants have also filed the rejoinder reiterating the facts averred in the original application.

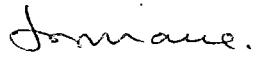
4. We have heard Shri B.S. Mainee, counsel for the applicants and he placed before us a copy of the judgment in the case of DARSHAN KUMAR CHADDA AND 2 OTHERS v. UNION OF INDIA decided by the Principal Bench in OA -2176/89 by the order dated 4.5.94. It is contended that the applicants are similarly situated to the petitioners of that case regarding their posting grade and pay scale and they also assailed the same grievance in the aforesaid OA-2176/89 which was disposed of with the direction "allow benefit of enhanced pay as annexure A-4 w.e.f. the date on which the applicants were subsequently promoted to the C.G. grade I and pay them all arrears within a period of 4 months from the date of receipt of this order."

5. Shri Romesh Gautam who appears for the respondents argued that the application has become infructuous as relief prayed for has already been granted to the petitioners of this case in the light of the judgment dated 4.5.94. However, this factual position is disputed by the learned counsel for the applicants. In view of this, we don't want to enter into merits of this case as it is covered by the judgment of May 4, 1994 and the present O.A. is also disposed of in a similar manner

with the same direction to the respondents and it is expected that the applicants of this case shall be given same benefits, if not already given, as is available to the D.K. Chadda and 2 others of OA-2176/89.

6. The application, therefore, disposed of accordingly, with no order as to costs. The judgment in OA-2176/89 is taken on record and placed on file 'A'.

  
(B.K. SINGH)  
MEMBER(A)

  
(J.P. SHARMA)  
MEMBER(J)

'KALRA'