

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH,

NEW DELHI.

Review Application No. 200/94

in

Original Application No. 2432/91

All India Railways
Ministerial Staff Association,
C-16/L, Lajpat Nagar, Rly. Colony,
New Delhi & Three Others.

... Applicants.

V/s.

Union of India through
the Chairman,
Railway Board,
Rail Bhawan,
New Delhi & Another.

... Respondents.

Coram: Hon'ble Shri N.V.Krishnan, Member(A),
Hon'ble Shri B.S.Hegde, Member(J).

ORDER ON REVIEW APPLICATION BY CIRCULATION

¶ Per Shri B.S.Hegde, Member(J)

Dated: 26.4.1994

The applicants have filed this Review Application seeking review of the Judgment dt. 25.3.1994 in Original Application No. 2432/91.

2. The OA was disposed of mainly in the light of the Judgment of the Division Bench of the Madras Bench dt. 13.2.1992 in OA - 173/90. The counsel for the applicant relied upon the Judgments of the Lucknow Bench/Allahabad Bench in OA - 286/89 delivered by a Single Member Bench and also cited a Division Bench of the Hyderabad Bench dt. 4.3.93 in OA-192/90.

3. We have considered the respective Judgments referred to by the learned counsel for the applicant. However, in the facts and circumstances of the case we could not agree with the views expressed by the Single Member Bench of the Lucknow Bench, the reasons are given at para 34 of the Judgment and hence no need to repeat the same.

...2.

4. The applicants have sought review of the Judgment mainly on the ground that the Judgment is delivered "per incuriam" inasmuch as it violate the fundamental rights of the applicants of being heard ^{by} the Larger Bench when as per the Procedure Rules of the CAT a Bench when hearing the application differs from the views expressed by the same Bench of the Tribunal in which the same principle/subject had been discussed and decided, such matter should be referred to the Hon'ble Chairman for constituting a Larger Bench to hear the same.

5. In this connection reference may be made to para 34 of the Judgment. The reason for dis-agreeing with the decision of a Single Member Bench of the Lucknow Bench. It is well settled principles of law that a Larger Bench "Division Bench" is empowered to modify or to alter the Single Member Bench decision if the facts and circumstances so warrants. Therefore, we were of the view, that is not a ground on which a review can be sought, such a contention is not tenable.

6. The short issue for consideration is whether the special pay attached to 10% posts of UDC only but not to the posts of UDC held by the applicants, who therefore did not receive the special pay should never taken count for fixation of pay for promotion. Admittedly, applicants were never in receipt of the special pay before they were promoted as Head Clerks, perhaps, because of the re-structuring of the cadre, a large number of posts of Head Clerks were created to which the applicants also came to be promoted when they were holding the posts of UDC which did not carry special pay. The Tribunal has allowed the claims of only persons who were in receipt of special pay, but promoted before 1985. It has also been held that the special pay drawn shall be treated as part of the existing emoluments for fixation of pay under the Railway

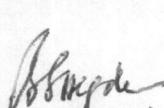
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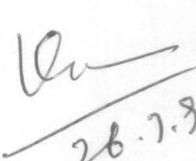
Servants Revision of Pay Scales Rules, 1968. We therefore, held that the applicants cannot claim that special pay should be included while fixing their pay as Head Clerks. We also observed that the decision of the Lucknow Bench is not applicable to the facts of this case as explained at para 34 of the Judgment.

7. The learned counsel for the applicants himself has referred to Order 47 Rule 1 of the CPC stating the circumstances in which Review Petition can be entertained. A perusal of the Review Application makes it clear that none of the ingredients referred to in Order 47 Rule 1 have been made out to warrant a review of the aforesaid Judgment, specially when the Judgment was disposed of in the light of the earlier Judgment of the Division Bench of the Tribunal on the very same matter.

8. It is well settled that the scope of Review is very limited. The review application is maintained only if there is an error apparent on the face of the record or any new evidence has come to the notice. It cannot be utilised for re-arguing. In the instant case, we do not find any new facts brought to our notice.

9. In view of the facts and circumstances of the case we do not see any merit in the Review Application, the same is rejected in circulation.


(B.S. HEGDE)
MEMBER (J).


26.7.84
(N.V. KRISHNAN)
MEMBER (A).
Vice Chairman