

(A2)
1

3

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

* * * * *

Allahabad : Dated this 15th day of July, 1996
Original Application No.124 of 1996

CORAM :-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

1. KR Singh son of late Babu Lal Singh,
R/o Koft Gran Tola, Rani Mando, Allahabad.
2. I.A. Si ddiqui S/o late Shaukat Ali,
R/o House No.C-303, Kareli,
Allahabad.
3. T.K. Chatterjee S/o Late NK Chatterjee,
R/o 131 South Malak, Allahabad.
4. Dooki Prasad S/o Late Lalji Prasad
C/o AP Singh, Railway Quarter No.524 B,
Traffic Colony V Avenue, Civil Lines,
Allahabad.
5. SM Mehdi son of late Syed Razi Uddin Hasan,
R/o House No.58, Zero Road,
Allahabad.
6. Mohan Lal S/o Mangal Das,
R/o House No.161, Colonelganj,
Allahabad.
7. Gaya Prasad S/o Late Pandit Inder Maharaj,
R/o House No.23/67, Uditganj Ki Mandi,
Baluaghat, Allahabad.
8. J.N.Lal S/o Late Ram Prasad,
R/o House No.308, Krishna Nagar, Triveni
Road, Allahabad.
9. N.N. Halder S/o Late HP Halder,
R/o House No.577/439, Attersuiya,
Allahabad.
10. R.A.Gupta S/o Late Mahadeo Prasad,
R/o House No.36/5, Bhawapur,
Allahabad.
11. S.G.A.Rizvi S/o Late Z.A.Rizvi,
R/o House No.349, Dariyabad,
Allahabad.

(By Sri AS Diwakar, Advocate)

. Petitioners

le

u

Versus

1. Union of India Through Secretary,
Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager, Northern Railway, Baroda House,
New Delhi.
3. Financial Advisor and Chief Accounts Officer
(Administration), Northern Railway, Baroda House,
New Delhi.
4. Senior Divisional Accounts Officer, Northern
Railway, Allahabad.

(By Sri

. Respondents

O R D E R

By Hon'ble Mr. S. Das Gupta, A.M.

11. applicants have jointly filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking a direction to the respondents to allow them special pay of Rs.35/- on the basis of seniority from the date the same had been allowed to their juniors and take into account such special pay in fixing their pay in the promotional grade. It has also been prayed that the respondents be directed to pay the amount of special pay which was granted to the applicant nos.1 to 7 but was subsequently recovered from them.

2. The applicants were senior clerks Grade I to which grade they were promoted on different dates. Among the applicants, except applicant nos.2, 3, 6, 8 and 11, the rest have since retired from service. It is stated that the Railway Board had issued a letter dated 11-7-1979 by which it was decided that the senior clerks/clerks Grade I shall be granted special pay of Rs.35/- per month, who were attending to work of more complex and important nature. The total number of such posts was to be limited to 10% of the posts in the seniority group of respective clerical cadres. All these posts were to be identified by the respective

Head of Departments. It was also stipulated that while filling up of the 10% posts would be on seniority-cum-suitability basis, it should be ensured that the senior persons are not ignored. The case of the applicant is that while their juniors were granted the special pay of Rs.35/- they were denied such benefits. Moreover, the applicant nos.1 to 7 were initially granted such benefits, but the same was withdrawn and the amount paid was recovered from 1-4-1985 onwards. It has been alleged that number of representations were made by the applicants but to no effect. Meanwhile, the Lucknow Bench of the Tribunal had held in the case of H.S.Shanker Vs. UOI & Ors OA NO. 87/91) decided on 25-3-1992 that the seniors cannot be ignored in the matter of grant of special pay. It is further prayed that the ratio of this decision was followed in the case of R.P. Katiyar in OA No.76/89 decided on 5-9-1992. A similar view^{was} stated to have been taken by the Allahabad Bench of the Tribunal in the case of Sangam Lal Vs. UOI in OA No.685 of 1994. The applicants claim to have made a re presentation to the respondents on 30-5-1995 followed by several reminders for being granted the benefit of the aforesaid judgement, but these representations have not yielded any result. In these circumstances, the present application has been filed.

3. The averments in the application are very vague. Nothing has been said as to who are the juniors to the applicants, who were granted the benefit of special pay, ~~the~~ ^{the} ~~date~~ from which such special pay was granted. However, it is quite clear that such special pay must have been granted prior to 1985 since the recovery from some of the applicants, who were granted the special pay commenced in 1985.

4. When the case came up for admission, we specifically asked the learned counsel for the applicants as to how

56

this application can be admitted since it is wholly barred by limitation. The learned counsel for the applicant urged that this would be a case of continuing cause of action and in this regard he relied on the decision of the Jabalpur Bench of the Tribunal in the case of Mohan Lal Pandey Vs. State of Madhya Pradesh decided on 24-1-1990. A photocopy of the excerpts of the decision was made available to us by the learned counsel for the applicant. The Jabalpur Bench appears to have taken a view in this case that if a government servant is deprived of any legitimate right and he is under a continuous wrong then the question of delay and laches does not arise provided the Tribunal has jurisdiction in terms of the cause of action. The full text of the case is not available to us and, therefore, we have not been able to assess in what facts and circumstances, the Jabalpur Bench came to hold the aforesaid view. In the case before us, we are not even aware as to when the cause of action arose since no details have been given as regards the date of grant of special pay to the juniors to the applicant. It can well be shortly after 1979 when the Railway Board order was issued and in that case, the cause of action would have arisen more than three years prior to the coming into effect of the Administrative Tribunals Act, 1985 and, therefore, the Tribunal shall have no jurisdiction in the matter. In any case, as the applicants do not appear to have taken any effective steps for redressal of their grievance except making some earlier representation in a desultory manner, the application is barred by limitation under Section 21 of the Administrative

W.L.

A2
5
7

Tribunals Act, 1985. Also it was decided by the Hon'ble Supreme Court in Chief Commissioner of Income Tax Vs. V.K. Gururaj 1996(1) ATJ 415 that the ~~the~~ special pay of Rs.35/- was being given to the UDCs for discharging duties of onerous nature and those UDCs who do not perform such duties, though seniors, do not ipsofacto get the same special pay as the juniors.

5. In view of the foregoing, we are of the view that the application cannot be admitted. The same is, accordingly dismissed summarily.

J. K. Dube
Member (J)

W. S. Dube
Member (A)

Dube /