

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 19th day of February, 2002.

Original Application No. 127 of 1996.

CORAM:-

Hon'ble Mr. C.S. Chadha, A.M.

Hon'ble Mr. AK Bhatnagar, J.M.

1. Dinesh Kumar Datley
S/o Late Dr. Rameshwar Datley,
R/o 116, Mohalla Vaidraj, Jhansi.
2. Pradeep Zutshi S/o Late Shri Kedarnath Zutshi,
Resident of 792, Chamanganj, Sipri Bazar,
Jhansi.

(Sri MP Gupta/Sri SK Mishra, Advocates)

• • • • • Applicants

Versus

1. The Union of India through the
General Manager, Central Railway,
Bombay V.T.
2. The Divisional Railway Manager,
Central Railway, Jhansi.

(Sri VK Goel, Advocate)

• • • • • Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. C.S. Chadha, A.M.

The case of the applicants is that they were working as Clerks in the Central Railway, Bombay Division, Bombay in the pay scale of Rs.260-430, which was later revised to Rs.975-1540. They also got promotion to the grade of Rs.1400-2300 and were working as Head Booking Clerks in Bombay. They had sought transfer to Jhansi on personal grounds. The allegation of the applicants is that they were considered for transfer much later than several others who had applied after them and even after effecting transfer order, they were not relieved in time leading to their becoming junior to others, who were relieved and sent to Jhansi. They also claim that they

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should have been placed in the grade of Rs.1400-2300
~~for and~~
in Jhansi as well, as on that score they also claim
protection of their pay and payments of arrears after
joining Jhansi.

2. Learned counsel for the respondents has brought to our notice the facts mentioned in the counter affidavit, which clarify that both the applicants were clearly asked for their option as to whether they would like to go to Jhansi even in lower grade because they have already been promoted. Both of them gave their willingness for being posted in the lower grade i.e. Rs.975-1540/-, and the willingness list shows them at Serial No.92 and 10 respectively. The respondents' case is that not only were the applicants asked for their willingness but even after transfer order, they were again asked ~~whether~~ ^{for} whether they would still like to go to Jhansi. In fact, even after that letter one of the applicants, namely, applicant no.1 Sri Dinesh Kumar Datley replied vide Annexure-3 that he may be allowed to remain at Bombay till April, 1993. It is, therefore, contended by the respondents that the allegation that they were deliberately not relieved is baseless and against the facts. The counsel for the respondents has also contended that in view of the clear willingness, they have no right to be posted in the scale of Rs.1400-2300. Further their basic pay has been protected and the question of payment of arrears does not arise because while fixing pay this aspect was taken into account.

3. In the interest of justice we ~~would~~ give protection that the respondents may again verify whether any arrears have still to be paid despite protecting their pay even after putting them in lower grade as accepted by them. The counsel for the applicant has brought to our notice the Railway Board Circular dated 12-9-1999 which speaks

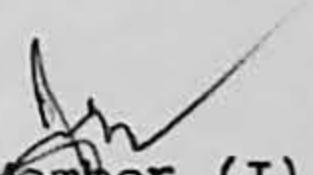
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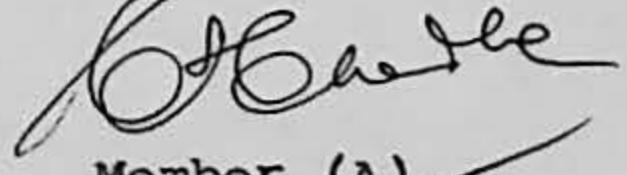
of protection of pay of those staff members who have joined in lower post on their own request. The counsel for respondents says that this order has been complied with in the case of the applicants and, therefore, we have no reason to disbelieve that the pay of the applicants have been protected.

4. The applicants have, therefore, no ground for fixation of their pay in the grade of Rs.1400-2300 despite twice expressing their explicit~~s~~ willingness to go in the lower grade.

5. As regards allegation that the seniority should be fixed in the higher level because some of the persons similarly transferred were relieved earlier, the respondents have already said that the applicant no.1 himself requestd for being held up at Bombay till April, 1993. We are unable to appreciate this ground of the applicant that had he been relieved earlier, he would have gone because it was still open to him to refuse to go to Jhansi at a later date.

6. In effect the OA is not allowed, except for the directions to the respondents as mentioned above regarding payment of arrears, if any. This may be done within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.


Member (J)


Member (A)

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