

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 5th day of March 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

O.A. No. 958 of 1996.

Sri Jamiat Ram a/a 64 years s/o Late Sri Heera Nand r/o 634,
Dcruz Compound, Maseehaganj, Sipri Bazar, Jhansi.

..... Petitioner.

Counsel for petitioner : Sri R. Verma.

Versus

1. Union of India through the General Manager, Central
Railway, Mumbai V.T.
2. The Divisional Railway Manager, Central Railway, Jhansi.
3. Senior Divisional Accounts Officer, Central Railway, Jhansi
..... Respondents.

Counsel for respondents : Sri K. P. Singh.

ORDER (ORAL)

BY HON. MR. S. DAYAL, A.M.

This application has been filed for setting aside letter dated 31.7.96 issued by respondent No.3 directing the applicant to deposit Rs.21,508/= with the Divisional Pay Master, Jhansi. Direction is also sought to the respondents to allow the benefit of Rs.35/= as special pay and to fix his pay after taking into account Rs.35/= as special pay for refixation of the pension of applicant. A prayer has also been made for not recovering Rs.21,508/= as excess payment from the pension of the applicant.

2. The applicant has claimed that he was appointed as Trains Clerk as a direct recruit recommended by Railway Service Commission. He was promoted to the rank of Shunting Master and thereafter to the post of Guard 'C'. He was declared unfit on medical ground as Gaurd 'C' and was again posted as Trains Clerk and thereafter as Clerk under the



control of Divisional Medical Officer. He claims that he was given benefit of special pay of Rs.35/= as he was senior most senior clerk/UDC w.e.f. 17.1.83 to 20.3.83. He was promoted as Head clerk in the pay scale of Rs.425-700 w.e.f. 21.3.83 and continued upto 8.7.83. He was reverted as senior clerk w.e.f. 9.7.83 and was promoted as Head clerk on ad-hoc basis from 16.7.84 and continued upto 15.11.84. He was again reverted as senior clerk w.e.f. 16.11.84. He was again promoted on 22.11.84 as Head clerk and continued upto 31.12. 1984. He was reverted as senior clerk/UDC w.e.f. 1.1.85. It is claimed that the benefit of special pay was stopped when he was promoted as head clerk on each occasion and thereafter it was again allowed when he was reverted to the post of senior clerk/UDC. This has been admitted by the respondents in their counter reply in para 12 & 13.

3. Counsel for respondents stated that the applicant was not entitled for special pay of Rs.35/=. It is clear from the averments of the CA that the applicant was working as senior clerk from 9.7.83 to 15.7.84. His pay as head clerk on promotion with retrospective effect on account of restructuring was fixed after taking into account the special pay of Rs.35/=. It is clear from the averments that the respondents have sought to deprive the benefit of this fixation without any notice to the applicant and without alleging any misrepresentation on his part. Therefore, the impugned order of recovery of Rs.21,508/= is contrary to the law laid down by the Apex Court.

4. As far as the second relief of allowing the benefit of Rs.35/= as special pay is concerned, the applicant has been unable to establish the claim for re-fixation of his pay w.e.f. 1.1.84.

5. We, therefore, set aside the impugned order dated 31.7.96 ordering the said recovery. If any amount is recovered from the applicant, the same ^{shall} ~~should~~ be refunded.

There shall be no order as to costs.

Rajiv
J.M.

Hand
A.M.

Asthana/