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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 1st day of December, 2000

Original Application No. 1024 of 1997

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Mr. S. Dayal, A.M.

Jagjiwan Lal Srivastava

S/o Ved Prakash Srivastava,

Electrician/Coach Fitter,

N.E. Railways, Gorakhpur.

(Sri Anil Kumar, Advocate)

..... Applicant

VERSUS

1. Union of India,

Through General Manager (P),

N.E. Railways, Gorakhpur.

2. Divisional Electrical Engineer/Construction/

B.G.N.E. Railways, Gorakhpur.

3. Assistant Electrical Engineer,

N.E. Railways, Gorakhpur.

(Sri Amit Sthalekar, Advocate)

..... Respondents

ORDER (U\_r\_a\_d)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

The facts giving rise to this application are that the applicant was appointed as casual labour on 25-1-1977 in Electrical Department in B.G. Construction, N.E. Rly. Gorakhpur. He was conferred temporary status in Group 'D' post in 1982 in pay scale of Rs.750-940. Though applicant has claimed that in 1985 he was screened and



regularised in Group 'D' post but in the counter affidavit it has been denied and it has been stated that the applicant was regularised in Group 'D' post on 31-10-1994. It appears that in 1989 the applicant had undergone a trade test and thereafter was allowed to join as Electrician in Group 'C' post w.e.f. 15-5-1989. The applicant claims that since the aforesaid he was serving in Group 'C' post in the grade of Rs.950-1500/- as Electrician. The applicant has claimed that he was transferred by the impugned order dated 25-6-1996. As the applicant has already served about 7 years in Group 'C' post, he was entitled for pay protection which has been denied. The applicant also claims that though even after the order of 25-6-1996, the applicant is still serving as Electrician in the AC Coach and discharging duties of Group 'C' post but he is being denied the pay. It is submitted that the applicant has been paid salary of Group 'C' <sup>upto</sup> ~~before~~ 1997. Relying upon the judgement of the Hon'ble Supreme Court in the case of Ram Kumar and Others Vs. UOI and Others, reported in All India Service Law Journal, Vol IV, P.116, it has been submitted that though the applicant has been regularised in Group 'D' post he is entitled for pay protection. A full Bench of Jaipur Bench of this Tribunal on 31-10-2000 has considered this question in the case of Aslam Khan Vs. UOI & Others and has answered in Para 9 in the following manner:-

"A person directly engaged on Group 'C' (promotional post) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on Group 'C' post directly but in Group 'D' post only. His pay which he drew in Group 'C' post will, however, be liable to be protected".

2. The judgement of the Hon'ble Supreme Court in Ram Kumar's case has been followed by the Full Bench. It



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appears that the applicant is entitled for pay protection. However, in the counter affidavit, all the necessary facts in this regard have not been stated. It has also not been clarified on which post the applicant is presently serving. The applicant before coming to this Tribunal filed a representation, a copy of which is annexed as Annexure-A-4 to the OA. The filing of the representation has not been denied in the counter affidavit, and it is still pending. In the facts and circumstances narrated above, in our opinion a direction may be given to the Chief Electrical Engineer, N.E.R. Gorakhpur to decide the representation of the applicant by a reasoned order in the light of the judgements of the Full Bench <sup>and</sup> of the Hon'ble Supreme Court within a specified time.

3. For the reasons stated above, this application is disposed of finally with a direction to the Chief Electrical Engineer, N.E. Rly, Gorakhpur to decide the representation dated 8-9-1996 of the applicant by a reasoned order in the light of the observations made above within a period of three months from the date of receipt of a copy of this order. In order to avoid delay it shall also be open to the applicant to file a fresh representation indicating the supplementary affidavit, which shall also be considered and decided. There shall be no order as to costs.

  
Member (A)

  
Vice Chairman

Dube/