

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

THIS THE 27TH DAY OF MAY, 2003

Original Application No.238 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.K.AGARWAL, MEMBER(A)

Khalique Ali, a/a 53 years  
Son of Wli Mohammed, working as  
Electrician at Manikpur(Banda)  
Resident of Mahabir Nagar, Manikpur  
district Banda(UP)

.. Applicant

(By Adv: Shri Anil Kumar)

Versus

1. Union of India through Secretary  
Railway Board, Rail Bhawan  
New Delhi.
2. Divisional Railway Manager,  
Central Railway, Jabalpur.

.. Respondents

(By Adv: shri Prashant Mathur)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the order dated 20.9.1996(Annexure 1) by which claim of the applicant for grant of pay scale of Rs 1400-2300 has been refused by Railway board.

The facts of the case are that applicant joined Railways as Electrician Train Lighting Khalasi on 25.4.1963. In due course of time he was promoted as Electrician Mistry by order dated 23.10.1990 in the pay scale of Rs 1320-2040. Order of promotion has been filed as (Annexure 3) which is not disputed by the respondents. The claim of the applicant is that in view of the Railway board's order dated 2.1.1987 he was entitled for the pay scale of Rs 1400-2300 from the date he occupied the post of Electrician mistry but the correct scale has been denied to

him. The learned counsel for the applicant has placed reliance on a judgment of Bombay bench of this Tribunal dated 15.6.1992 passed in OA no.327/89 copy of which has been filed as (Annexure 5). It is submitted by the counsel for the applicant that the specific finding in the judgment ~~are~~ <sup>is</sup> that there was hardly any distinction between Electrician and Mistry for the purpose of payment of special pay of Rs 35/- and also that electricians were supervising highly skilled workers. The applicant <sup>of this case</sup> ~~was~~ <sup>is</sup> found entitled for special pay of Rs 35/- on the aforesaid basis. It has been further submitted that this Tribunal vide order dated 14.9.1995 passed in OA No.1167/92, relying of the Bombay bench judgment, <sup>and</sup> ~~accepted~~ <sup>accepted</sup> similar claim and allowed the OA and directed the respondents to pay the scale of Rs 1400-2300 to the applicants of that case.

Shri Prashant Mathur learned counsel for the respondents, on the other hand, submitted that the order dated 2.1.1987 of the Railway Board could not be applicable in respect of the applicant as he was not discharging <sup>supervisory</sup> ~~supervisory~~ duties. The benefit of the revised scale of Rs 1400-2300 was given by the Railway Board to those Mistries <sup>who</sup> ~~who~~ were discharging supervisory duties. It is further submitted that the applicant was granted this scale by Railway Board's order dated 22.1.19~~9~~<sup>97</sup> w.e.f. the date of the order and the grievance of the applicant has been satisfied, he is not entitled for any further relief.

We have carefully considered the submissions of learned counsel for parties. The Bombay bench of this Tribunal in its order recorded finding about Electrician Mistries in following manner:

"After careful reading of the averments made

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in the application and reply thereto and after giving a thoughtful consideration there can be no difficulty in taking the view that there is hardly any distinction between an Electrician and Mistry for the purpose of application of the above mentioned Railway board's letter. We are also satisfied that the applicant in his capacity as an Electrician is supervising highly skilled workers. The net result is that the applicant should be treated as Mistry and it should also be held that he is supervising highly skilled workers. It follows that the applicant is entitled to special pay of Rs35/- p.m. as envisaged in the aforesaid letter of Railway board."

The aforesaid view of Bombay Bench of this Tribunal was followed by this Tribunal in OA No.1167/92 decided on 14.9.1995 'Abdul Hamid Bs. Union of India and Others. the Division Bench of this Tribunal held as under:-

"The judgment of Bombay Bench of Central Administrative Tribunal produced alongwith the rejoinder by the applicant, has specifically examined the question whether the electricians were mistries or not. The Bombay Bench of the Tribunal held that the persons working as Electricians will be treated as Mistries and that they were supervising highly skilled workers. Thus the requirement for granting of pay scale of Rs 1400-2300 stipulated by railway board letter dated 02.01.1987 are fulfilled by the applicant in this case. Hence they were entitled to the scale of Rs 1400-2300."

In our opinion, the aforesaid order of the Tribunal is squarely applicable in the present case. The respondents denied the scale of Rs 1400-2300 to the applicant on the ground that he was not discharging supervisory duties.

*[Handwritten signature]*

However, Bombay bench of this Tribunal and this Tribunal both have held that Electrician Mistries are discharging supervisory duties and in fact applicant was entitled for this scale right from the date he was appointed as Electrician Mistry. In our opinion, applicant is entitled for relief.

The OA is accordingly allowed. The order dated 20.9.1996(Annexure 1) is quashed. The respondents are directed to give pay scale of Rs 1400-2300 to the applicant w.e.f. 23.10.1990 in view of the Railway Board's order dated 2.1.1987. This order shall be complied with within three months from the date a copy of this order is filed before the Competent Authority. There will be no order as to costs.

MEMBER(A)

VICE CHAIRMAN

Dated: 27th May, 2003

Uv/