

19
OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.300 OF 1997
ALLAHABAD THIS THE 18TH DAY OF NOVEMBER, 2003

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN
HON'BLE MR. D. R. TIWARI, MEMBER-A

K.N. Sudeley,
S/o Late Shri Narain Das Sudeley,
resident of 603/21 Newton Compound
near Chitra Talkies,
Jhansi U.P.Applicant
(By Advocate Shri A.D. Prakash & Shri A.K. Dave)

Versus

1. Union of India,
through the General Manager,
Central Railway,
Head Quarter's Office,
Mumbai CST.
2. Chief Personnel Officer (EL),
Central Railway,
Head Quarters Office,
Mumbai CST.
3. Senior Electrical Engineer,
Central Railway Workshop,
Jhansi U.P.Respondents
(By Advocate Shri A. Sthalekar)

ORDER

HON'BLE MR JUSTICE S. R. SINGH, VICE-CHAIRMAN

The instant O.A. has been instituted for the following
reliefs:-

"8.1 Direct the respondents to assign seniority of the
applicant in grade Rs.1600-2600/-, 550/750 with effect
from 1.1.1979 as per Railway Board circular dated
19.2.1979 or from 1980 since when as per circular
Sri R.K. Jain was promoted as A grade chargeman.

(Signature)

8.2 Direct the respondents to grant benefit of seniority to the applicant w.e.f. 18.12.1981 at par with applicants juniors Shri S.K. Nayak and B.S. Chaurasia as conceded by the respondents to grant seniority from the date his juniors were promoted.

8.3 direct the respondents to fix pay of the applicant correctly since 1979 and make payment of arrears of pay with interest and refund the recovery of Rs8081/- made as over payment with interest.

8.4 issue any other orders and directions as deemed fit under the fact and circumstances of applicants case.

8.5 award cost of the application."

2. Learned counsel for the applicant has stated at bar that he does not press the reliefs 8.1,8.2 and part of relief 8.3. Learned counsel for the applicant has confined his claim only in respect of the relief seeking refund of the recovery of Rs8081/- made as overpayment with interest. It appears that a sum of Rs8081/- has been recovered from the applicant on the premises that these emoluments were paid on the wrong fixation of pay. The counsel for the applicant submits that the applicant was not at fault at fixation of salary and, therefore, it was not open to the respondents to recover the amount already paid to him.

3. Having heard counsel for the parties, we are of the view that the amount already paid to the applicant ought not to have been recovered from him in that he was not at all at fault in the fixation of his pay on the basis of which he was paid the emoluments. The legal position in this regard is well settled in view of the judgment of Shyam Babu Verma and Others Versus Union of India and Others reported in 1994 SCC (L&S) 683 wherein it is held that since the petitioners therein had received the higher scale due to no fault of theirs, it would only be just and proper not to recover any excess amount already paid to them.

R.G.

4. Following the said decision, we allow the application and direct the respondents to refund the amount of Rs8081/- already recovered from the applicant within a period of three months from the date of receipt of a certified copy of this order.

5. Parties are directed to bear their own cost.

Dava
Member-A

PGV
Vice-Chairman

/Neelam/