

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 1st day of December, 2000

Original Application No. 347 of 1997

CORAM :-

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

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

1. Raghuvendra Pratap Singh,
S/o Shri Ram Kripal Singh,
R/o 530-A, Ghanshyam Nagar,
Allahabad.
2. Smt. Sharad Singh,
Care of the Chief Area Manager,
Northern Railway,
Kanpur.
3. Smt. Purnima Rani,
W/o Shri S.K. Prasad,
R/o Lalit Nagar, Railway Colony,
Allahabad.

(Sri KK Misra, Advocate)

. Applicants

Versus

1. Union of India,
Through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Allahabad.
3. The Divisional Personnel Officer,
Northern Railway,
Allahabad.
4. The Divisional Commercial Manager,
Northern Railway,
Allahabad.
5. Shri Shiva Kant Shukla,
Head Clerk,
C/o Sr. Divisional Commercial Manager,
Northern Railway, Allahabad.
6. Shri B.P. Tiwari,
Head Clerk
C/o Sr. Divisional Commercial Manager,
Northern Railway,
Allahabad.



- 2 -

7. Smt. Ranjan Gaur,
Head Clerk,
C/o Chief Area Manager,
Northern Railway,
Kanpur Jn.

(Sri A.V. Srivastava, Advocate)

. Respondents

ORDER (U_r_a_l)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Short controversy raised in this application filed under Section 19 of the Administrative Tribunals Act, 1985, is that the applicants who are serving as Head Clerks are senior to respondent no.5, Sri Shiva Kant Shukla, should be given the same pay scale which is being paid to respondent no.5. It appears that while serving as Senior Clerk, respondent no.5 was paid special pay of Rs.70/- per month which was not paid to the applicants. On the basis of special pay, fixation of pay of respondent no.5 has gone higher than the applicants though he is junior to the applicants. Thus, there is anomaly in payment of salary. Such dispute has been resolved by the Hon'ble Supreme Court in UOI & Ors Vs. P. Jagdish & others, (1997) 3 SCC 176. The Hon'ble Supreme Court answered the question in the following manner :-


" This principle of stepping up which we have upheld would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reason that the respondents had not worked in the post to which 35% (sic Rs.35 as) special pay was attached in the lower cadre. But by reason of promotion the promotees-juniors who worked on the post, in fact, performed the hard duties and earned special pay. Directions to pay arrears would be deleterious to inculcation of efficiency in service. All persons who were indolent to share higher responsibilities in lower posts, on promotion would get accelerated arrears that would be deleterious to efficiency of service. Therefore, though direction to step up the pay on notional basis is consistent with Article 39(d) of the Constitution, it would be applicable only prospectively from the date of the promotion and the fixation of the scale, stepping up of the scale of pay would be prospective to calculate future increments on the scale of pay in promotional

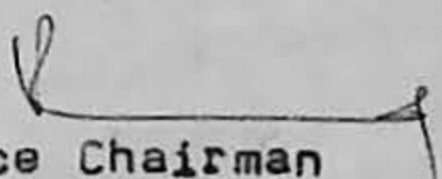


post only prospectively. The appeal is dismissed but in the circumstances there would not be any order as to costs."

2. The aforesaid view has been further followed by the Hon'ble Supreme Court in the case of UOI & Urs Vs. B. Sarkar, 1999 SCC(L&S) 936.

3. In view of the aforesaid legal position explained by the Hon'ble Supreme Court ~~as~~ the applicants are entitled for the relief to the extent as indicated by the Hon'ble Supreme Court in the judgements aforesaid. Accordingly the OA is allowed. The order impugned dated 18-3-1999 (Annexure-A-12 to the OA) is quashed. Respondents are directed to fix salary of the applicant in accordance with the law laid down by the Hon'ble Supreme Court within a period of three months from the date of filing of a copy of this order. There shall be no order as to costs.


Member (A)


Vice Chairman

Dube/