

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 948 OF 1997
ALLAHABAD THIS THE 5TH DAY OF AUGUST, 2003

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER-A
HON'BLE MRS. MEERA CHIBBER, MEMBER-J

1. Jai Narayan Tripathi,
Son of Shri Ram Krishan Tripathi,
Resident of Railway Colony,
Kashi Kalan, Tehsil Chhata,
District-Mathura.
2. Radha Kant Dixit,
son of Shri Chandra Bhan Dixit,
Resident of Railway Colony,
Kashi Kalan, Tehsil,
Chhata, District-Mathura.

Smt Lajja Devi Dixit,
aged about 55 years,
widow of late Radha Kant Dixit,
R/o 13-A M.I.G. Kadam Vihar, Refinary,
Mathura.

.....Applicants

(By Advocate Shri A.K. Goyal)

Versus

1. Union of India,
through Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.

2. Divisional Railway Manager (P),
Central Railway Jhansi.

3. Divisional Railway Manager (M),
Central Railway,
Jhansi.

.....Respondents

(By Advocate Shri P. Mathur)

O R D E R

HON'BLE MRS. MEERA CHIBBER, MEMBER-J

By this O.A. applicants had claimed the following
reliefs:-





"i) that the Tribunal may graciously be pleased to issue a order or direction to the respondents to do the correct pay fixation of the applicants.

ii) issue a order or direction to the respondents to make the payment of the balance arrears of the salary of the applicants.

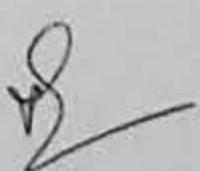
iii) issue a order or direction to the respondents to pay the applicants the salary of the pay scale of Rs. 425-640 of the period of 29.11.1981 to 20.04.1984.

iv) issue any other order or direction as this Tribunal may deem fit and proper in the present circumstances of the case."

2. It would be relevant to mention here that during the pendency of the O.A. applicant no.2 had died. Accordingly his wife Smt. Lajja Devi Dixit was brought on record ~~as~~ ^{as} legal representative of applicant no.2 Late Shri Radha Kant Dixit.

3. The short controversy raised by the applicant in this case is that even though they were promoted in the scale of Rs. 330-560 vide order dated 06.11.1981 and were posted on 'Bad'. However, since there were no post available at the said Railway Station in the scale of Rs. 330-560 applicants were made to work on the higher post of Cabin Assistant Station Master. Since there was no post of Cabin Assistant Post Master in the scale of Rs. 330-560 at 'Bad', accordingly they were made to work against the post of Cabin Assistant Station Station Master in the grade of Rs. 425-640 with effect from 29.11.1981. Accordingly they are entitled to get the pay in the pay scale of Rs. 425-640 right from 29.11.1981 till 20.04.1984.

4. Respondent's counsel on the other hand submitted that from 1981 to 1984 whenever applicants performed the duties of higher post they were given the officiating allowances for the said post. But from 21.04.1984 since they were promoted on ad-hoc basis by written order they have already



been given the pay in the scale of Rs.425-640 which according to them is apparent from order dated 30.12.1997 (Annexure CA-2). Applicants have not disputed the payment for the period from 21.04.1984 to 15.02.1987 but they have categorically stated that they are also entitled for the same pay for the period from 29.11.1981 from 20.04.1984.

5. We have heard both the counsel and perused the pleadings as well.

6. Broadly speaking respondents have not disputed the fact that after they were promoted as Cabin Assistant Station Master in 1981 there was no post available in the said scale at 'Bad' Railway Station. Accordingly they were made to officiate on the higher post. The dispute is, while respondents have stated that they had paid the officiating allowances to the applicants during the said period while the same is denied by the applicants. There is nothing on record to suggest whether any officiating allowances were in fact paid to the applicants during the period 29.11.1981 to 20.04.1984 in the scale of Rs.425-640 though there is an averment made by the respondents to that effect. This averment is denied by the applicants in their RA. In the absence of any documentary proof it will not be possible for us to give any positive direction in this case, specially where respondents have stated categorically that they have already paid the officiating allowances to both the applicants during the aforesaid period.

7. In view of the fact as explained above, we think ends of justice would be met if this case is remitted back to the

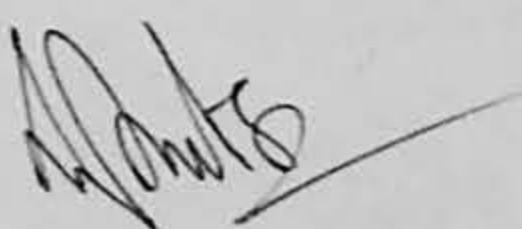
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authority namely Divisional Railway Manager, Central Railway Jhansi , DRM (P) to verify the position and to give in writing to the applicants including the legal representatives as to what amount has been paid to the applicants on account of officiating allowances for the period ^{from} 29.11.1981 to 20.4.84 and by which mode, in case the officiating allowances are found to have been already given to the applicants. But in case he finds that no such allowances have been paid to the applicants for the period from 29.11.1981 to 20.04.1984 and they had ^{not} discharged the duties in the higher scale of Rs425-640 then they shall be entitled to the wages of the said post. Respondents no.2 is directed to pass a reasoned order ^{whereas of difference} dealing with this aspect particularly in case any payments are to be made to the applicants, the same shall be paid to them within a period of four months from the date of receipt of a copy of this order.

8. With the above directions this O.A. is disposed off with no order as to costs.



Member-J



Member-A

/Neelam/