

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

Original Application No. 1645 of 2001

Thursday, this the 14th day of May, 2009

Hon'ble Mr. Justice A.K. Yog, Member (J)

Hon'ble Mrs. Manjulika Gautam, Member (A)

1. Gaya Prasad Upadhyay, son of Late P.C. Upadhyay presently working as Head Parcel Clerk, Allahabad Jn. Railway Station, Allahabad, R/o 14-E/2, Lukerganj, Allahabad.
2. Ashok Kumar Sharma, son of Late M.L. Sharma, present working as Head Booking Clerk, Khurja Junction Railway Station, Khurja, R/o 3-T/D Railway Colony, Khurja Junction, Northern Railway, District Bulandshahar.
3. Shiv Lal Ambedkar, son of Late Gunjeshwar Prasad, present working as Head Booking Clerk, Allahabad Junction Railway Station, Allahabad R/o Sector 'C' 594 Guru Teg Bahadur Nagar, Kareilly Colony, Allahabad.

Applicants

By Advocate: Sri Arvind Kumar

Vs.

1. Union of India through the Divisional Railway Manager, Allahabad Division, Northern Railway, Allahabad.
2. Divisional Railway Manager, Allahabad Division, Northern Railway, Allahabad.

Respondents

By Advocate: Sri A.K. Pandey

ORDER

Delivered by Justice A.K. Yog, Member-(J)

1. Heard learned counsel for the parties. Perused the pleadings and documents on record.
2. By means of this O.A., the applicants, Gaya Prasad Upadhyay, Ashok Kumar Sharma and Shiv Lal Ambedkar seek to challenge Order dated July 30th 2001, Annexure A-1/ Compilation-I to the O.A.

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3. According to the applicants, they were engaged as 'Commercial Apprentice' in the year 1987; the two grades Rs.425-600 and 455-700 were merged; those working in the erstwhile pay scale Rs.425-600/- in that group were placed below in seniority in 'Common Merged Cadre' as against those working in erstwhile pay scale-Rs.455-700; and since the applicants were in erstwhile pay scale Rs.455-700/- they could not be placed in merged cadre below those working in erstwhile pay scale Rs. 425-600/-.

4. There has been spate of litigation in the instant matter and at one stage matter went up to the Apex Court, which upheld the validity and decided date of applicability of Memorandum dated 15.05.1987/annexure A-4 to the O.A. O.A. No. 1528 of 1992 (filed by present applicants) was decided by this Tribunal vide Order dated 07.11.2000/Annexure A-7. O.A. was partly allowed, but relief-claiming/quashing of Memorandum dated 15.05.1987 (referred to above) was rejected, and reversion order against the applicants passed by the respondents was set aside with liberty to respondents to pass fresh order after hearing the applicants.

5. The main contention of the learned counsel for the applicants is that they have not been afforded adequate opportunity of hearing and, in support of said contention, reliance is placed on certain correspondence particularly annexure A-10 dated 04.05.2001 (submitted by two of the applicants in the O.A.). As far as applicant No. 1 is concerned, he did not present himself on 04.05.2001 and also found office closed on following dates (annexure A-11/Compilation-II to the O.A.).

6. The respondents have filed Counter Affidavit but learned counsel for the parties are unable to place relevant facts/adequate pleadings required for deciding the controversy (on factual aspect) of the case.

7. One of the legal grounds raised In the present O.A. is that impugned order has been passed in violation of principle of natural justice i.e. without giving opportunity of hearing to the applicant in as much as they have not been intimated/apprised of the

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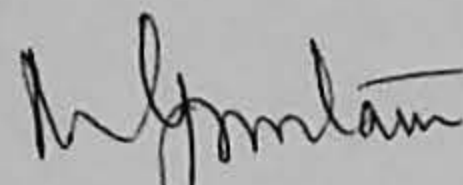
reasons/grounds for issuing order of reversion (from pay scale i.e. Rs.1600-2660/- to Rs.1400-2300/-).

8. In view of the pleadings, as they stand on record, it cannot be said that the applicants were provided adequate opportunity of hearing before impugned reversion order dated July 30th 2001, Annexure A-1/ Compilation-I to the O.A. and same cannot be sustained.

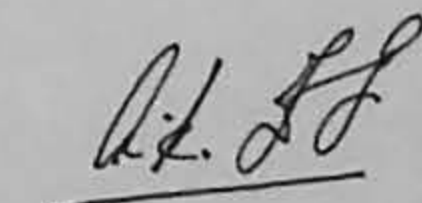
9. In the result, impugned order dated July 30th 2001, Annexure A-1/ Compilation-I to the O.A. is set aside.

10. Applicants are directed to file parawise-comprehensive representation within 8 weeks from today along with certified copy of this order, before respondent No. 2/ Divisional Railway Manager, North Central Railway, Allahabad to consider and decide the representation in accordance with law by passing a reasoned/speaking order within 3 months of receipt of representation, provided it is filed [within the time stipulated/contemplated above]. The decision taken shall be communicated to applicants forthwith.

11. O.A. stands allowed with the direction/observations (indicated above). No order as to costs.


Member (A)

/M.M/


Member (J)