

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 466 OF 2001

ALONG WITH

ORIGINAL APPLICATION NO:1466/1998

ALLAHABAD, THIS THE 23rd DAY OF APRIL, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)
HON'BLE MR. S. C. CHAUBE, MEMBER(A)

1. Moji Lal s/o Shri Ram Gopal
2. Bansh Lal s/o Shri Kalika Poosted under Section Engineer (Works) CPC Kanpur.

.....Applicants in O.A.466/2001
(By Adv. Shri B.N. Singh)

1. Kedar Shah s/o Shri Nako Shah
r/o Section Engineer, (Works),
C.P.C. Northern Railway, Kanpur.

.....Applicant in O.A.1466/98

(By Advocate : Shri B. N. Singh)

V E R S U S

1. Union of India through the Divisional Rail Manager, Northern Railway, Allahabad Division, Allahabad.
2. Divisional Superintending Engineer/Cordination, Northern Railway, Allahabad Division, Allahabad.
3. Assistant Engineer (I) Northern Railway, G.T. Road Kanpur.

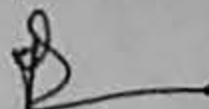
....Respondents in both the O.As

(By Advocate : Shri G.P. Agarwal)

O R D E R

By Hon'ble Mrs. Meera Chhibber, Member(J)

By these O.As applicants have challenged the action of



respondents in not giving them the benefit of Railway Board's circular dated 03.10.1980 whereby scale of pay of storeman watchman in engineering department was directed to be revised from Rs.196-232/- to Rs.200-250/- w.e.f. 01.11.1977.

2. It is the case of applicants that they are also ^{in Allahabad Division} watchman of stores in Engineering department, but they are not being given the benefit of this letter simply because there is no post designated as store watchman at Allahabad Division, it being a Hindi speaking region, while in all other Railways this post is being called as store watchman. It is further submitted by them that they cannot be discriminated against in as much as in Allahabad Division also some of the chowkidars filed case in labour court for giving them the same benefit and the labour court vide its order dated 26.06.1991 directed the respondents to fix the pay of applicant therein in the grade of Rs.200-250/- w.e.f. 01-01-1973 and to fix his pay accordingly by giving him annual increments along with arrears within 3 months (Pg.31 at 37). This order was challenged by respondents in the Tribunal by filing O.A. No. 8/92 but this Tribunal also vide its judgment dated 24.03.1995 upheld the order passed by labour court (Pg.47). It is submitted by applicants that respondents paid the arrears also to Jagdev Prasad as directed by Tribunal, therefore, in Allahabad Division itself two similarly situated persons cannot be treated differently as that itself would be violative of Article 14 and 16 of the constitution.

3. Applicant have submitted that they gave representation to the respondents but since no reply was being given they filed O.A. No.1438 of 1998 which was disposed off by giving direction to the respondents to decide the applicants' representation by passing a detailed and reasoned order.



4. Pursuant to this direction, respondents have passed order dated 26.02.2001 explaining therein that since in Allahabad division post of storeman ~~chowkidar~~ ^{watchman} is not even in existence, applicants cannot claim the relief which was meant for storeman watchman only. Moreover, applicant was selected and appointed as Chowkidar in the pay scale of Rs.750-940/- w.e.f. 30.08.1990. The requirement of medical for chowkidar is C-I and C-II, ^{whereas for store watchman it is B.2.} It is thus, clear that both these posts are different. They have further explained that applicant was not even in service in 1980 when Railway Board's letter was issued. In anycase whatever decision is taken by the court in a pending matter in O.A. No.1466/98 shall be binding on applicants as well.

5. Applicants have challenged this order in the present O.A. on the ground that since they are performing the same duties as that of store watchman in engineering department, they cannot be paid lower pay scale simply by giving a different name to their posts.

6. We have heard both the counsel and perused the pleadings as well. The relief claimed by applicants herein is to give them the benefit of Railway Board's letter dated 30.10.1980 and give them revised scale of pay from time to time along with arrears and interest @18%. Perusal of letter dated 30.10.1980 shows it was meant for store watchman in the engineering department only whereas admittedly applicants were neither appointed as store watchman nor they have claimed that they should be designated as storewatchman. On the contrary admittedly they were appointed as chowkidar which has a different scale therefore, in these circumstances no relief can be given to the applicants as prayed ^{by} ~~for~~ them specially when respondents have stated that they don't have any sanctioned post of storewatchman in Allahabad Division. However, it is seen that the letter



dated 30.10.1980 written by Railway Board for revision of pay scale of storewatchman in the engineering department reads as under:-

"Copy of Rly Board's letter No.PCII/II/ES storewatchman Engg.Deptt/4 from Jt. Director Estt. Rly. Board to All G.Ms All under Railway etc.

Sub: Revised scale of pay of store watchman Rs.196-232(Rs) in the Engg. Department.

Reference this Ministry's letter of even number dated 09.01.1973 on the above quoted subject.

The Ministry of Railways, in consultation with the Ministry of Finance, have decide that the modified scale of Rs.200-250 allotted to store watchman in the civil Engg. Deptt. will take effect from 01.01.1973 instead of 01.11.1977.

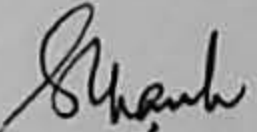
This has the sanction of the President."

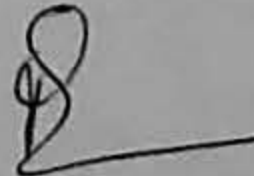
7. This letter was addressed to all GMs and all the Railways which would definitely include Allahabad Division also. In Allahabad also engineering department is available and they have the stores as well. In these circumstances why the post has been designated as chowkidar only in Allahabad Division ^{when} ~~in~~ other railways it is known as Store Watchman is not understood. After all whether they are performing the same duties or have different duties would only be known to Railway Board. We sitting here in court cannot evaluate the duties of different posts. We therefore, are of the opinion that this matter should be referred to Railway Board so that they may examine this aspect as to whether the duties performed by applicants are same as that of storewatchman of engineering department ^{of other Railways} or not. ~~and~~ ⁱⁿ case it is found that they are performing the same duties, to pass appropriate orders as deemed fit in accordance with law. We are ^{referring} ~~referring~~ this matter to the Railway Board for another reason because some of the

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persons, who approached labour court, were given the benefit of the circular dated 30.10.1980. It would be quite an anomalous situation that those persons are given the higher scale even though they also were appointed as Chowkidar and performed the duties of Chowkidar but deny the same to applicants. In same Railways two identically placed persons cannot be given different scales. Respondents did not even take the matter to the Hon'ble High Court but implemented the order as far as Jagdev Prasad was concerned by giving him arrears therefore, we feel this matter needs to be examined by Railway Board itself. Accordingly, respondents are directed to refer the matter to the Railway Board by giving the duties and other relevant factors of the post of chowkidar in Engineering department to the Railway Board within 2 months from the date of receipt of a copy of this order and Railway Board shall get the duties and other relevant factors from other Railways of the post of storewatchman to see whether there is any similarity in the posts or they are different posts altogether and they pass appropriate orders therein after examining the matter in accordance with law under intimation to the applicant. It is made clear that in case orders are passed by the Railway Board in favour of applicants, it shall have prospective effect only. as case has been filed by applicant only in 2002. It goes without saying that the orders to be passed by Railway Board should be speaking orders. They shall be passed within 6 months from the date duties etc. of the post of chowkidar and storewatchman are made available to them.

8. With the above direction, these O.As are disposed off with no order as to costs.


Member (A)


Member (J)