

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

THIS THE 4<sup>th</sup> DAY OF November 2011

**HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)  
HON'BLE MR. D. C. LAKHA, MEMBER (A)**

**ORIGINAL APPLICATION NO. 1079 OF 2004**  
(U/S 19, Administrative Tribunal Act, 1985)

1. Chandra Bahadur Singh, S/o Shri Indrajet Singh, aged about 69 years, resident of 47 A, Muir Road (Rajapur), Allahabad.
2. Niranjan Lal Singh S/o Late Shri Ram Dularey Singh, aged about 69 years, resident of 30/6/6 Alop Bagh, Allahabad.
3. Neelija Kant Chakravarti S/o Late Shri G. K. Chakravarti, Aged about 71 years, resident of 132/D/2 Alop Bagh, Allahabad.

.....Applicants

**V E R S U S**

1. Union of India through General Manager, N.C. Railway, Nawab Yusuf Road, Allahabad.
2. Railway Board through its Chairman, Rail Bhawan, New Delhi.
3. Senior Divisional Finance Manager, North Central Railway, D.R.M's Office, Allahabad.
4. Financial Advisor and Chief Accounts Officer, North Central Railway, Headquarter Office, Nawab Yusuf Road, Allahabad.

.....Respondents

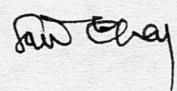
Present for the Applicant: Sri Sudama Ram.

Present for the Respondents: Sri Prashant Mathur.

**O R D E R**

Instant O.A. has been instituted for the following relief/s:-

"(i) issue order or direction quashing the order dated 18.06.2004 (annexure A-1) passed by Dy. F.A. & CAO, North Central Railway, Allahabad;



(ii) issue an order or direction quashing the order dated 08.10.2002 passed by Senior Divisional Accounts Officer, North Central Railway, Allahabad;

(iii) issue an order or direction directing the respondents to fix the salary of the applicants w.e.f. 01.01.1984 under rule 2018 B (F.R. 22 C) of Indian Railway Establishment Code Volume-II and to pay arrears w.e.f. 01.01.1985;

(iv) issue order or direction directing the respondents to refix and revise the pension payable to the applicants on account of revision of pay w.e.f. 01.01.1984 and pay the arrears of the same;

(v) issue any other order which this Hon'ble Court may deem and fit in the circumstances of the case;

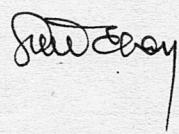
(vi) Award cost of the original application from the contesting respondents."

2. The pleadings of the parties may be summarized as follows:-

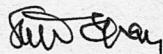
It has been alleged by the applicants that they were appointed as Clerk Grade-II in the pay scale of Rs. 60-130 (PS) / 110-180 (RS) on different dates mentioned in the O.A.. They retired from service on attaining the age of superannuation on various dates shown in the O.A.. That according to normal channel of promotion of Clerks Grade-II in Account

*Sudhakar*

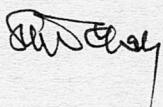
Department Clerk Grade-II (Rs.110-180) is entitled to be promoted as Clerk Grade-I (Rs.130-300). Thereafter, applicants have an option to get promotion either as Stock Verifier and get advancement of his carrier in the Channel of Stock Verifier or he can opt for the channel of Sub Heads and advance his career to the post of Senior Accounts and above. Applicants did not opted for the channel of Stock Verifier, but he opted for the channel of Sub heads, later on the scale of Rs.210-380 was revised to Rs425-700(RS). The post of Sub Heads was treated as a functional post i.e. carrying higher responsibilities than the Clerical Grade-I. Vide Railway Board's letter dated 16<sup>th</sup> May, 1980 the post of Sub Heads was converted by abolishing the post of Sub Head and introduced the post of Selection Grade Clerk Grade-I and it was also ordered to the Sr. Divisional Accounts Officers of various divisions to intimate the number of vacancies which became available on 01<sup>st</sup> April, 1980 on the post of Selection Grade Clerk Grade-I on account of conversion of posts of Sub Head into Selection Grade Clerk Grade-I. The applicants were promoted from the post of Clerk Grade-I to the post of Clerk Grade-I (Selection Grade) w.e.f. 01<sup>st</sup> April, 1983 and in view of this the pay was fixed of



the applicants @580/- in the scale of Rs.425-700/- and they were drawing maximum of grade i.e. Rs.560/- at the time of promotion. The post of Selection Grade has been treated and categorized as non-functional. In the matter of fixation of salary on promotion to a non-functional post the provisions of Rule 2017 of Indian Railway Establishment Code Vol-II (F.R.-22) are applicable whereas that fixation of salary on promotion on a functional post, the provisions of Rule 2018-B of Indian Railway Establishment Code Vol.-II (F.R.-22 C) are applicable. According to rule 2017 on promotion the salary fixed without giving advantage of one increment, but the post of Selection Grade Clerk-I was categorized as non-functional post and salary was fixed by applying rule 2017. Vide Railway Board's letter dated 01<sup>st</sup> January, 1984 the posts of Sub Head was reintroduced and earlier practice was discontinued and the pay of those staff drawing Rs.560/- at the time of promotion w.e.f. 01<sup>st</sup> January, 1984 was also fixed @ Rs.580/- in the grade of Rs.425-700/- as Sub Head. It was also provided in the Railway Board's letter dated 25<sup>th</sup> June, 1985 that all non-functional selection grade posts, if any, existing in the categories covered by order, were to be adjusted against the upgraded post i.e.



the post of Sub Head, as was reintroduced by the aforesaid letter of the Railway Board. The promotional post in the grade of Rs.210-380/- which was revised to 425-700 (RS), was converted and remained there as non-functional only for a short period from 01<sup>st</sup> April, 1980 to 01<sup>st</sup> April, 1984 only, the applicants were promoted in the promotional grade of Rs.425-700/- and their salary was fixed accordingly when the promotional post in the grade of Rs.425-700/- was categorized as non-functional. The applicants have been adjusted against the post of Sub Head which is a functional post w.e.f. 01<sup>st</sup> April, 1984 and they became entitled to get their salary fixed in accordance with rule 2018 B (F.R.22 C) of Indian Railway Establishment Code Vol.-II. It was also provided in the letter of the Railway Board dated 25<sup>th</sup> June, 1985 that as a result of restructuring their pay will be fixed under rule 2018 w.e.f. 01<sup>st</sup> January, 1984. That many juniors to the applicants in the grade of Clerk grade-I become entitled for promotion in grade Rs.425-700/- on reintroduction of the post of Sub Head in that grade and their salary was fixed by Railway Administration by applying the provisions of rule 2018 i.e. by giving benefit of one increment, but the salary of the applicants have not

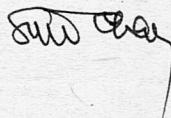


been fixed in view of Rule 2018-B and hence there is disparity in the salary of the applicant and the juniors getting more salary. Earlier O.A. No.442 of 1996 was also filed and the O.A. was decided by order dated 05<sup>th</sup> December, 2001 and as the order was not complied with hence contempt petition was moved and in the contempt petition the proper compliance has been made of the order and in pursuance of the direction the representation of the applicants was also not decided properly, hence the O.A.

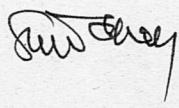
3. Respondents contested the case and filed Counter Reply and denied ~~from~~ the allegations made in the O.A.. It has further been alleged that the order dated 18<sup>th</sup> June, 2004 is self explanatory on the subject and the case of the applicants have been considered by the respondents in view of the direction of the Tribunal in the contempt petition No. 13 of 2003 and the representation of the applicants was decided as per provisions provided in the Railway Board's letter dated 07<sup>th</sup> November, 1996 and the claim of the applicants was rejected and the decision was communicated to the applicants. That the selection to non-functional selection grade CG-I being an appointment and not the promotion is required to be regulated under Rule-2017. It is a

*Shrivastava*

fact that vide Railway Board's letter dated 16<sup>th</sup> May, 1980 a provision was made for introduction of the post of C.G.-I (Selection grade) in the scale of Rs.425-700 (RS) and the applicants' were appointed C.G.-I (Selection Grade) w.e.f 01<sup>st</sup> December, 1983, 01<sup>st</sup> April, 1983 and 01<sup>st</sup> September, 1980 respectively and later on salary of the applicant was fixed as per Railway Board's different circular letters and whatever, has been alleged by the applicant in the O.A. is misconceived. It has also been alleged that the applicants had already been appointed to the post (selection post) C.G. in the grade of Rs.425-700 (RS) prior to 01<sup>st</sup> April, 1984 and their pay had already been fixed in the grade of Rs.425-700/- and as such there is no justification on the part of the applicants to claim their fixation in the same grade which has now redesignated as Sub Head (Grade Rs.425-700/-) by applying rule 2018 B the applicants were adjusted against reintroduced post of Sub Head and accordingly their pay was fixed in the view of the specific provision contained in the Indian Railway Establishment Code and Railway Board's instruction dated 25<sup>th</sup> June, 1985 has wrongly stated by the applicants and the salary of the applicants had already been fixed in the right perspective. The

A handwritten signature in black ink, appearing to read "S. M. Chauhan".

post of Sub Head in the Grade Rs.425-700(RS) was reintroduced by Railway Board dated 20<sup>th</sup> June, 1985 w.e.f. 01<sup>st</sup> January, 1985 treated as functional and even then the question of re-fixation of the pay of the applicants as prayed under rule 2018 does not arise at all. It has also been provided in this Railway Board's letter that the post of Selection Grade Clerk Grade-I in Rs.425-700/- will be discontinued and the selection grade Sub Head will continue as per extent rules that Sub Head to work as Clerical hand as required by the Railway Administration. The applicants were promoted on the post of selection grade clerk prior to 01<sup>st</sup> April, 1984 and by Railway Board's circular dated 25<sup>th</sup> June, 1985 this post was discontinued and earlier practice was reintroduced and there was no change in the status of the function of the clerical hand and nothing was done for shouldering higher responsibility hence the applicants are not at all entitled for re-fixtion of the salary as prayed. that the applicant Nos.2 and 3 since had already been drawing more pay than their juniors as on 01<sup>st</sup> January, 1984 and applicant No.1 is drawing less pay then his juniors hence necessary fixation was done of the pay of the applicant No.1 and the pensionary benefits was also revised, hence O.A. was filed



under wrong impression, as the O.A. is misconceived hence the same is liable to be dismissed.

4. We have heard Sri Sudama Ram, Advocate for the applicant and Sri Prashant Mathur, Advocate for the respondents and perused the entire facts of the case.

5. From perusal of the pleadings of the parties it is evident that certain facts have been admitted and not disputed by the respondents also. It is an admitted fact that these applicants were appointed as Clerk Grade-II in the pay scale of Rs.60-130(PS) 110-180(RS) on different dates. That according to normal channel of promotion of Clerk Grade-II in Accounts Department a Clerk Grade-II (Rs.110-180/-) is entitled to be promoted as Clerk Grade-I (Rs.130-300/-). It is also undisputed fact that it is optional to the employees concern to get promotion either as Stock Verifier and get advancement of his career to the post of Senior Accounts and above. According to the avenue of channel of promotion prevalent at the relevant period a Clerk Grade-II is to be promoted as Clerk Grade-I and Thereafter, a Clerk Grade-I Rs.130-300/- may be promoted as Sub Head Rs. 210-380. It is also undisputed fact that when the applicants become entitled for promotion

*Sub Head*

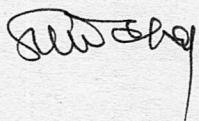
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from the post clerk Grade-II. ~~and~~ It has also been alleged that this post has also been treated as functional post i.e. carrying higher responsibilities than the Clerical Grade-I. It is also undisputed that the in the year 1981 when the Allahabad division was under the territorial jurisdiction of Northern Railway, the Railway Board issued a letter on 16<sup>th</sup> May, 1980 and vide this Railway Board letter all the posts of Sub Heads were abolished and converted by introducing the post of Selection Grade Clerk-I, <sup>and 8</sup> ~~1~~ The Financial adviser and Chief Accounts Officer (Admn.) Northern Railway vide letter dated 16<sup>th</sup> May, 1981. It is also undisputed fact that the applicants were promoted from the post of Clerk Grade-I to the post of Clerk Grade-I (Selection Grade) on different dates and salary was fixed accordingly @ 580/- in the scale of Rs.425-700/- as they were drawing maximum of grade i.e. Rs.560- at the time of promotion. It has also not been disputed that the post of Selection Grade Clerk Grade-I has been treated and categorized as non-functional and accordingly the salary of the applicants was fixed according to provision of Rule 2017 of Indian Railway Establishment Code, later on the post of Sub Head in the scale of Rs.425-700(RS) was again introduced w.e.f. 01<sup>st</sup> January, 1984 vide

*Swamy*

Railway Board's letter dated 25<sup>th</sup> June, 1985 which was discontinued w.e.f. 01<sup>st</sup> April, 1980 as stated in preceding paragraphs ~~of this application~~ and <sup>order</sup> ~~of~~ thereafter the pay of the applicant was fixed again. It was also provided in the Railway Board's letter dated 25<sup>th</sup> June, 1985, ~~that~~ all non-functional selection grade posts, if any, existing in the categories covered by order, were to be adjusted against the upgraded post i.e. the post of Sub Head, as was reintroduced.

6. It has been alleged by the applicants that when the promotional post in the grade of Rs.210-380 which was revised to Rs.425-700(RS) was converted and remained there as non-functional only for a short period from 01<sup>st</sup> April, 1980 to 01<sup>st</sup> January, 1984 and the applicants were promoted in the promotional post of Rs.425-700/- and their salary was fixed accordingly when the promotion post in the grade of Rs.425-700/- was categorized as non-functional, but later on applicants were adjusted against the post of Sub Head which a functional post w.e.f. 01<sup>st</sup> January, 1984, under these circumstances the applicants became entitled to get their salary fixed in accordance with rule 2018 B of the above mentioned code and there had been anomaly that the



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juniors are promoted ~~and~~ are getting more salary than the applicants, but it has been alleged by the respondents that the applicants had already been appointed on the post of Selection Grade C.G. in the grade of Rs.425-700(RS) prior to 01<sup>st</sup> April, 1984 and their pay had already been fixed in the grade of Rs.425-700/- and as such there is no justification on the part of the applicants to claim their fixation in the same grade which has now re-designated as Sub Head (Grade Rs.425-700/-) by applying rule 2018 B, <sup>the 2</sup> the applicants were adjusted against reintroduced post of Sub Head and accordingly their pay was fixed in ~~the~~ <sup>e</sup> view of the specific provision contained in the Indian Railway Establishment Code and Railway Board's instruction dated 25<sup>th</sup> June, 1985, under these circumstances we have to ascertain that whether after reintroduction of the promotional post of Sub Head whether the applicants who had already promoted in that scale of Rs.425-700/- on the post of Selection Grade (C.G.-I) <sup>their pay</sup> <sup>2</sup> and were also to be re-fixed after reintroduction of the post of Sub Head w.e.f. 01<sup>st</sup> January, 1984. <sup>(Selection Grade)</sup> Earlier the promotional post of C.G.-I was non-functional post and later on the post of Sub Head was designated as functional post and the provisions have been made in the Indian Railway Establishment

*Sub Head*

Code for fixation of salary of such employees in view of rule 2017 and 2018<sup>2</sup> it will be material to reproduced the relevant rule 2017 and 2018 B of the Indian Railway Establishment Code Vol.-II it has been provided as follows:-

"2017. (F.R.22) Fixation of Initial Substantive Pay.- The initial substantive pay of a railway servant who is appointed subsequently to a post on a time scale of pay is regulated as follows:-

(a) If he holds a lien on a permanent post, other than a tenure post, or would hold a lien on such a post his lien not been supplied-

(i) when appointment to the new post involves the assumption of duties or responsibilities of greater importance [as interpreted for purpose of Rule 2026 (F.R.30) than those attaching to such permanent post, he will draw as initial pay the stage of the time-scale next above his substantive pay in respect of the old post;

(ii). when appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time-scale which is equal to his substantive pay in respect of the old post, or if there is no such stage, the stage next below that pay plus per personal pay equal to the differences, and in either case will continue to draw that pay until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is less. But if the minimum pay of the time-scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay;

*[Signature]*

(iii) when appointment to the new post is made on his own request under Rule 2011(a) [F.R. 15(a)] and the maximum pay in the time-scale of that post is less than his substantive pay in respect of the old post, he will draw that maximum as initial pay.

(b) If the conditions prescribed in clause (a) are not fulfilled he will draw as initial pay the minimum of the time-scale.

"Provided, both in cases covered by clause (a) and in cases, other than cases of re-employment after resignation or removal or dismissal from the public service, covered by clause (b), that if he either-

(1) has previously held substantively or officiated in-

(i) the same post or,

(ii) a permanent or temporary post or the same time scale, or

(iii) a permanent post other than a tenure post or a temporary post (including a post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Government) on an identical time scale; or

(2) is appointed substantively to a tenure post on a time-scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated; then the initial pay shall not, except in cases of reversion to parent cadre, governed by proviso (1) (iii), be less than the pay, other than special pay, personal pay or emoluments classed as pay by the President under Rule 2003 (21) (a) (iii) [F.R. 9 (21) (a) (iii)] which he drew on the last occasion, and he shall count the period during which he drew that pay on such last and any previous occasions for increment in the stage of the time-scale equivalent to that pay. If,

*See* *copy*

however, the pay last drawn by the railway servant in a temporary post has been inflated by the grant of premature increments the pay which he would have drawn but for the grant of those increments shall, unless otherwise ordered by the authority competent to create the new post, be taken for the purposes of this proviso to be the pay which he last drew in the temporary post. The service rendered in a post referred to in proviso (1) (iii) shall, on reversion to the parent cadre, count towards initial fixation of pay, to the extent and subject to the conditions indicated below-

(a) the railway servant should have been approved for appointment to the particular grade/post in which the previous service is to be counted;

(b) all his seniors, except those regarded as unfit for such appointment, were serving in posts carrying the scale of pay in which benefit is to be allowed or in higher posts, whether in the department itself or elsewhere, and atleast one junior was holding a post in the department carrying the scale of pay in which the benefit is to be allowed; and

(c) the service will count from the date his junior is promoted and the benefit will be limited to the period the railway servant would have held the post in his parent cadre had he not been appointed to the ex-cadre post."

2018-B (F.R. 22 C) - Notwithstanding anything contained in these rules, where a railway servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay accrued."

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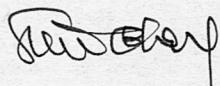
7. Hence, from perusal of rule 2017 and 2018 B (F.R.22) & (F.R. 22C) it is evident that in case the appointment to the new post involves the assumption of duties or responsibilities of greater importance than those attaching to such permanent post, he will draw as initial pay the stage of the time-scale next above his substantive pay in respect of the old post whereas, it has been provided in rule 2018 B that his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay accrued. In view of rule 2018 B there is a benefit of one increment in fixation whereas, there is no such benefit of one increment if the salary is fixed in view of rule 2017 and incase of appointment to that post he will draw as initial pay the stage of the time-scale next above his substantive pay in respect of the old post. Learned counsel for the applicant argued that considering the circumstances of the case the pay ought to have been fixed as provided in rule 2018 B, as we have stated above that vide Railway Board letter 16<sup>th</sup> May, 1980 the post of Sub Head a promotional post was abolished and introduced post of Selection Grade-I. Admittedly the applicants were promoted after Railway Board's letter dated 16<sup>th</sup> May, 1980 and at the time of promotion of these

*Sub Head*

applicants the post of Sub Head was abolished and new post of Selection Grade-I was introduced, if the earlier avenue of promotional post ~~was~~ remained same then the applicants ought to have been promoted on the post of Sub Head, but as these posts were converted into a new post of selection grade-I and hence the applicants were promoted on the post of selection grade-I Rs.425-700/- and at that time the post of Selection Grade-I was categorized and treated as non-functional and accordingly the pay of the applicant was fixed according to rule 2017 of Indian Railway Establishment code Vol.-II and there is no dispute that the pay of the applicants was wrongly fixed on promotion as Selection Grade-I. We don't have to decide that on promotion on the post of Selection Grade-I the salary of the applicants ought to have been fixed as provided in rule 2017. It is also a fact that the post of Sub Head in the scale of Rs.425-700/- was again introduced w.e.f. 01<sup>st</sup> January, 1984 vide Railway Board's letter dated 25<sup>th</sup> June, 1985 which was discontinued w.e.f. 01<sup>st</sup> April, 1980 ~~was discontinued~~ <sup>in</sup> ~~in~~ case an employee is to be promoted from the post of ~~Selection~~ <sup>clerk</sup> Grade-I then he is to be promoted to the Post of Sub Head in the scale of Rs.425-700/- and salary will be fixed as per letter dated 25<sup>th</sup> June, 1985. <sup>Whereas</sup> ~~then~~ the

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applicants were promoted on the post of Selection Grade-I in the scale of Rs.425-700/- even after reintroduction of the post of Sub Head the scale remained the same and there was no difference in the <sup>been</sup> <sup>2</sup> scale. It has also not disputed that vide letter dated 25<sup>th</sup> June, 1985 the post was treated and categorized as functional post and in that circumstances the salary is to be fixed of the employees as per provision of 2018 B, but the main contention of the respondents is that the employee <sup>who</sup> were promoted in the grade of Rs.425-700/- prior to 01<sup>st</sup> January, 1984 and their salary was fixed in that scale under these circumstances there is no justification for re-fixation of the same Grade Rs.425-700/- even after reintroduction of the post of Sub Head in grade Rs.425-700/- by applying rule 2018 B. However, the applicants were readjusted <sup>on</sup> the reintroduced post of Sub Head. Earlier the applicants were promoted on the post of Selection Grade (C.G.-I), but as this practice was discontinued and new policy was reintroduced then these applicants were also adjusted as Sub Head. It has been argued by the learned counsel for the respondents that when the post of Sub Head was reintroduced then there was no justification to re-fix the salary of the applicants in the same scale



Rs.425-700/- because the salary in this grade of these applicants had already fixed. It has also been argued by the learned counsel for the respondents that specific directions were given in the earlier circular of the Railway Board that what shall be the position in such cases and if there was discrepancy and anomaly in the salary of the applicant <sup>✓</sup> <sup>✓</sup> ~~vis-à-vis~~ juniors and were promoted after 01<sup>st</sup> April, 1984 then the benefit was given to these applicants also, although, there is no disparity and it has not been disputed by the applicants' Advocate. It is an admitted fact that earlier also these applicants filed O.A. No.442 of 1996 and this O.A. was decided on 05<sup>th</sup> December, 2001 and the following order was passed while deciding the earlier O.A.:-

"7. We, therefore, direct the respondents to fix the pay of the applicants on par with the juniors who have promoted after 1.1.84. The respondents shall comply with this order within a period of 4 months from the date of receipt of certified copies of this order by respondents."

8. It had not been decided by the Tribunal in the earlier O.A. that the salary of the applicants shall be fixed in the same scale in view of rule 2018 B of the Indian Railway Establishment Code, only direction was given that the pay of the applicants

*Shiv Chauhan*

shall be fixed ~~at~~ par with juniors who have been promoted after 01<sup>st</sup> January, 1984. It is also a fact that the when the order passed by this Tribunal was not complied with by the respondents then a Contempt Petition No.13 of 2003 was also filed and this Contempt Petition was decided on 13<sup>th</sup> November, 2003 and it has been ordered in that contempt petition that the respondents have complied with the orders of the Tribunal and we are satisfied that the proper compliance has been made of the order passed by this Tribunal. However, it has also been provided that the F.A. & C.A.O. should reexamine the representation of the applicants dated 22<sup>nd</sup> May, 2002 and pass a reasoned and speaking order regarding applicability of rule 2017 in respect of the applicants and Rule 2018 B in respect of the others. In pursuance of the direction of the Tribunal in the contempt petition a representation was made by the applicants and the representation was decided by the respondents by impugned order dated 18<sup>th</sup> June, 2004 and it has been held in the order as under:-

"That selection to non-functional Selection grade CG-I being an 'appointment' and not a 'promotion' is required to be regulated under Rule 2017 (a-ii) (FR-22-a-ii) R-II and not under FR-22-C"



It may be pointed out that the applicant who is senior is not getting lower benefits than his junior, Applicability of 2017, F-II or 2018 is a matter, which has been decided by the Board <sup>in</sup> consultation with the recognized labour federations."

8. Hence, it is evident from perusal of the order passed on the representation of the applicants it was provided that who is senior is not getting lower benefits than his junior, Applicability of 2017, F-II or 2018 is a matter, which has been decided by the Board <sup>in</sup> consultation with the recognized labour federations and respondents alleged that the proper compliance of the order has been made.

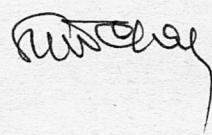
9. Learned counsel for the applicant placed reliance on the following judgments:-

1. 1995 SCC (L&S) 1430 Union of India Vs. Indian Railway SAS Staff Association and Ors.
2. (1998) 38 Administrative Tribunals Cases 131 (FB) S. Chandrasekharan Nair & Ors. Vs. Accountant General (A&E) and Ors.
3. (1992) 20 Administrative Tribunals Cases 176 Union of India & Ors. Vs. Secretary, Madras Civil Audit and Accounts Association and another

*Subash*

We have considered the above mentioned law laid down by Hon'ble Apex Court and C.A.T. and we are of the opinion that in the present circumstances of the case no benefit can be given to these applicant of the above mentioned judgments.

10. From perusal of the facts of the case it is evident that the applicants were promoted on the post of Selection Grade C.G.-I prior to 01<sup>st</sup> April, 1984 and after 16<sup>th</sup> May, 1980 in the scale of Rs.425-700/- and their salary fixed as per rule 2017, but after 01<sup>st</sup> January, 1984 when the cadre of Sub Head was reintroduced the applicants pay remained the same as they had already been promoted, but they were readjusted in the reintroduced post of Sub Head hence again after reintroduction of the cadre of Sub Head it was not necessary that the salary of the applicants be re-fixed in the same scale in which it has already been fixed and according to rule the salary of the applicants on promotion is to be fixed in accordance with rule 2017 and not in accordance with rule 2018 B, in the earlier O.A. it was decided that incase there is any disparity in the pay of the applicants ~~vis-à-vis~~ juniors then the applicants will be put at par with ~~their~~ juniors and



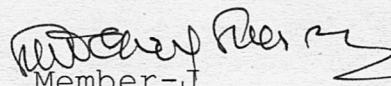
it is not the case of the applicants that they are still getting benefit lesser than the juniors and the pensionary benefits have also been revised accordingly by fixing salary at par with juniors.

**11.** For the reasons mentioned above we are of the opinion that the pay of the applicants had rightly been fixed in view of rule 2017 because at the time of promotion of these applicants the position was different, but the position ~~was~~ changed after 01<sup>st</sup> April, 1984 after promotion of the applicants in that scale and it was not justified that the salary of the applicants is to be revised and re-fixed in the same promotional post twice. We are of the opinion that the respondents had rightly decided the representation of the applicants and there is no illegality and arbitrariness in the order passed by the respondents dated 18<sup>th</sup> June, 2004 (Anexure-A-1), in our opinion O.A. lacks merits and liable to be dismissed.

**12.** O.A. is dismissed, accordingly. No order as to costs.



Member-A



Member-J

/Dev/