

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Original Application No. 258/2018

(Through Video Conferencing)

This, the 09th day of April, 2021

HON'BLE MR. A MUKHOPADHAYA, MEMBER (A)
HON'BLE MR. R.N. SINGH, MEMBER (J)



1. Vimal Kumar Chojar, aged about 65 years, S/o Late Shri K.L. Chojar, R/o C-737, Indira Nagar, Lucknow.
2. Narain Lal Srivastava, aged about 62 years, S/o late Sri G.C. Srivastava, R/o 1/105 Virat Khand, Gomti Nagar, Lucknow.
3. Pradeep Kumar Bajpai, aged about 62 years, S/o Sri J.L. Bajpai, R/o 2/46, Vibhav Khand, Gomti Nagar, Lucknow.
4. Vijai Bahadur Lal, aged about 64 years, S/o late Sri R.B. Lal Srivastava, R/o 2/401 Vivek Khand, Gomti Nagar, Lucknow.
5. Vinay Kumar Srivastava, aged about 61 years, S/o Sri N.B. Lal Srivastava, R/o 31 Bajrang Nagar, Gali No.1, Near Neelam Bhawan, PO Manas Nagar, Lucknow.
6. Shivendra Pratap Singh, aged about 63 years, S/o late Sri Uday Veer Singh, R/o B-4 Vinay Nagar, Krishna Nagar, PS Manak Nagar, Lucknow.
7. Raj Kumar, aged about 62 years, S/o Sri Hari Mohan Saxena, R/o B-29A Kurmanchal Nagar, Lucknow.

8. S.N. Shukla, aged about 61 years, S/o Sri Rudra Narain Shukla, R/o 54 Khasra No.5, Vimal Nagar, Kamta, Lucknow.
9. R.P. Mishra, aged about 65 years, S/o Sri Kailash Nath Mishra, R/o 568-K/408, Krishna Palli, Alambagh, Lucknow.
10. Vijay Prakash Srivastava, aged about 65 years, S/o late Sri J.P. Srivastava, R/o 34-A Malviya Palli, Malviya Nagar, Lucknow.
11. Pramod Kumar Srivastava, aged about 62 years, S/o Sri Roshan Lal Srivastava, R/o D-2/551, Vineet Khand, Gomti Nagar, Lucknow.
12. Surendra Nath Pandey, aged about 61 years, S/o Late Sri Kedar Nath Pandey, R/o E/2/457 Vinay Khand-2, Gomti Nagar, Lucknow.
13. Chandra Bahal Mishra, aged about 64 years, S/o Late Sri Raj Bahadur Singh, R/o 4/442, Rajani Khand, Sharda Nagar, LDA Colony, Lucknow.



.....Applicants

By Advocate : Shri Praveen Kumar

Versus

1. Union of India, through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The Finance Commissioner, Railway Board, Rail Bhawan, New Delhi.

3. The General Manager, North Eastern Railway,
Gorakhpur.

4. FA & CAO, North Eastern Railway, Gorakhpur.

.....Respondents

By Advocate : Ms Prayagmati Gupta

ORDER(ORAL)

BY A. MUKHOPADHAYA, MEMBER (A)



Learned counsel for the applicants Sri Praveen Kumar submitted, that the dispute in this O.A. relates to a settled position in law established by the decision of the Madras Bench of this Tribunal in O.A. no. 966 of 2009- S. Prabhu-II & Others Vs. Union of India & Others and O.A. No. 767 of 2009- S. Rangarajan-III & Others Vs. Union of India & Others in which similar relief(s) sought by the applicants in those cases have already been allowed, in that they have been granted the Grade Pay of Rs. 5400/- on completion of four years of regular service in Pay Band of Rs. 9300-34800/- with Grade Pay of Rs. 4800/-. He reiterated the arguments made in the O.A. that the present applicants are similarly situated in every manner as the applicants in the cited O.As and

therefore, there is no justification why they should be discriminated against and the same benefits should not be given to them.

2. In brief, the claim of the applicants, in this O.A., is for grant of Grade Pay of Rs. 5400/-. The claim of the applicants is that they were serving as Section Officer/Sr. Section Officer/Sr. ISA and they were placed in Grade Pay of Rs. 4800/- in Pay Band -II of Rs. 9300-34800/-. Learned counsel for the applicants argues that the cited decisions of the Madras Bench of this Tribunal are squarely applicable in the present case as the decision of the Madras Bench of this Tribunal has been affirmed by the Hon'ble High Court of Madras vide judgment and order dated 19.3.2014 in W.P. No. 18612 of 2011 and also by the Hon'ble Supreme Court vide judgment and order dated 19.8.2014 in Civil Appeal No. 11103 of 2014. In view of this, the matter has attained finality.



As regards the rejection order dated 17.2.2018 passed by the respondents in this case, (Annexure A-1), Sri Praveen Kumar, learned counsel for the applicants, argued that merely because the present applicants were not party to the cited O.As in question, this does not render them ineligible for the benefit in question; rather, in view of the principles established in the aforesaid two O.As cited above, which have been reaffirmed at the Apex Court level,

the respondent authorities are under legal obligation to extend the same benefit to similarly situated employees and not discriminate against the applicants.

4. Per-contra, Ms. Prayagmati Gupta, learned counsel for the respondents reiterated the arguments made in her CA to the O.A. in that she stated that the applicants had already received three promotions and in view of that, no further valid claim exists.



5. We have carefully considered the rival submissions of both the counsels and perused the available record.
6. It is not in dispute that the subject matter of this O.A. has been the subject of similar litigation in several Benches of this Tribunal following upon the original decision in the cited O.As of Madras Bench.
7. It may be mentioned that Ministry of Railways (Railway Board) issued an order dated 6.8.2019 on the subject of Clarification for grant of Non-Functional Scale to Gr. B officers in Level -11 of Accounts Department and Level-10 in Organized departments of Indian Railways whereby certain doubts received from various Zonal Railways have been clarified. Thus, it is clear that in the respondent Railways also, Non-Functional Selection Grade has been allowed to employees who have completed

four years of regular service in Grade Pay of Rs. 4800/-

8. Looking to this, we find ourselves in full agreement with the arguments advanced by the learned counsel for the applicants that the present applicants, if similarly situated as the applicants in the cited O.As, should be given the same benefit of grant of Grade Pay of Rs. 5400/- and not be discriminated against.



9. Accordingly, the O.A. is allowed. Order dated 17.2.2018. (Annexure A-1.) is quashed and set-aside. The respondents are directed to re-examine the case of the applicants specifically to ascertain whether the present applicants are similarly situated to the applicants of the cited O.As and if so, to extend the same benefit of Grade Pay of Rs. 5400/- as has been extended to the applicants in the cited O.As and also as per the Railway Board's circular dated 6.8.2019 referred to above. In the event of the respondents finding that the present applicants are not similarly situated persons as the applicants of the cited O.As and those referred to in the Railway Board's own order/clarification referred to above, they will be required to pass a reasoned and speaking order specifically detailing the points of dissimilarity. The whole exercise shall be completed within a period of six weeks from the date of receipt

of a certified copy of this order. There shall be no order as to costs.

MEMBER (J)

MEMBER (A)

Girish/-

