

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH, ALLAHABAD

Dated : Allahabad this the...3rd...day of ^{May}~~April~~, 1996.

CORAM : Hon'ble Mr. S. Das Gupta, Member-A
Hon'ble Mr. T. L. Verma, Member-J

ORIGINAL APPLICATION NO. 735 of 1986

1. M. A. Ansari son of Sri Mohd. Umar Ansari, Senior Cashier, Northern Railway Pay Office, Allahabad.
2. Ghanshyam son of Shri Bater Ram, Senior Cashier, Northern Railway, Allahabad.
3. S. N. Singh, son of Shri R. S. Singh, Senior Cashier Northern Railway Allahabad.
- 4(a) Jaimala Gupta s/o. Sri Late R.M. Gupta,
- 4(b) S. K. Gupta s/o. late R. M. Gupta,
- 4(c) Km. Meena Gupta, D/o. late R.M. Gupta.
Resident of House No.1483, Sankat Mochan) Vasleyganj, Mirzapur.
5. Nawab Hussain son of Shri Bashir Ahmad, Senior Cashier, Northern Railway, Pay Office, Allahabad.
6. M. C. Jauhari, son of late Sukhdeo Prasad, Senior Cashier, Northern Railway, Allahabad.
7. B. B. Sen, son of late Bipin Bihari Sen, Senior Cashier, Northern Railway, Allahabad.
8. Ravinder Kumar son of Late Badri Prasad, Senior Cashier, Northern Railway, Allahabad.
9. D.S. Mishra, son of Shri Sri Nath Mishra, Senior Cashier Pay Office, Northern Railway, Allahabad.
10. Ram Achal son of Shri Sheo Baran Senior Cashier, Northern Railway, Pay Office, Allahabad.
11. Ram Deo son of Shri Ram Narain Cashier, Northern Railway, Pay Office, Allahabad.
12. P.N. Mehrotra, son of late Guru Bux Mehrotra, Senior Cashier, Northern Railway, Allahabad.
13. Nathu Ram son of late Nek Ramji, Senior Cashier, Northern Railway Pay Office, Kanpur.
14. Sidhawan Prasad, son of Late Birjoo, Senior Cashier, Northern Railway Pay Office, Kanpur.
15. R. C. Khanna son of Shri K.C. Khanna, Senior Cashier, Pay Office, Kanpur.

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16. P. S. Sharma, son of Pt. Kishan Sahai, Senior Cashier, Northern Railway, Kanpur.
17. J. N. Sahu son of late Meri Lal Sahu, Senior Cashier, Pay Office, Northern Railway, Kanpur.
18. L. P. Yadav, son of Sri Mahadeo Prasad, Senior Cashier Northern Railway Pay Office, Kanpur.
19. R. C. Srivastava, son of Sri S. R. L. Srivastava, Sr. Cashier, Northern Railway Pay Office, Kanpur.
20. R. C. Tewari son of Shri Ram Nath Tewari, Senior Cashier, Northern Railway, Kanpur.
21. S. C. Jain, son of Shri Munshi Lal Ji Jain, Senior Cashier, Northern Railway, Pay Office, Tundla.
22. Ramesh Chandra son of Shri Ghourey Lal, Senior Cashier, Northern Railway Pay Office, Tundla.
23. Prem Lal son of Shri Pyare Lal, Senior Cashier, Northern Railway, Pay Office, Tundla.
24. Prem Nath son of Shri Mishri Lal, Cashier, Northern Railway, Pay Office, Tundla.
25. M. L. Yadav son of Shri Baij Nath Prasad Yadav, Senior Cashier, Northern Railway, Tundla.
26. M. C. Mishra son of Shri J. P. Mishra.
Senior Cashier, Northern Railway Pay Office, Tundla.
27. L. P. Singh, son of Shri R. S. Singh, Cashier, Northern Railway, Pay Office, Allahabad.

(THROUGH COUNSEL SHRI M. S. SRIVASTAVA)
AND SHRI G. C. BHATTACHARYA)

VERSUS

1. Union of India.
2. Railway Board,
through its Chairman, Rail Bhawan,
Baroda House,
New Delhi.

3. The General Manager,
Northern Railway,
Rail Bhavan,
Baroda House,
New Delhi.
4. Financial Advisor and Chief Accounts Officer,
Northern Railway, Baroda House,
New Delhi.
5. Chief Cashier, Northern Railway, Multi Storied,
Building, New Delhi.
6. Senior D.A.O.
Northern Railway,
Allahabad.

(THROUGH COUNSEL SRI K.N. KUMAR)

&

SHRI PRASHANT MATHUR.)

O R D E R
(By Hon'ble Mr. T. L. Verma, Member-J)

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The applicants, who are Cashiers employed at Allahabad, Kanpur and Tundla Pay Offices of the Allahabad Division have, in this application challenged the order dated 13.4.1983 issued by the Chief Cashier(jA) New Delhi fixing a ceiling on payment of honorarium to the Staff of Pay & Cash Department at 200 hours per month.

2. Brief facts of the case, as made out in the

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application, are that the applicants in their capacity as Cashiers have to receive cash, cheques and bills and disburse salary to the employees through cheques, cash and by money orders and maintain cash Book giving details of the amount paid and unpaid. They are also required to maintain unpaid register, money order register, Cheque Advice Note and service Statement Register in proper form. They have to go on tour every month from 5th to 9th, from 10th to 13th and 16th to 24th ~~for~~ making payments to the employees posted at outstations, notwithstanding the payment days falling on Sunday or other Gazetted holidays. The respondents, it is stated, in view of above arduous nature of work of the applicants, ~~are stated to have~~ decided to give incentive to the applicants in the form of honorarium. The incentive is admissible to such Cashiers who give out turn in addition to the Yard Stick fixed. Prior to 1979, according to the Yard Stick fixed, a Cashier was required to disburse a sum of Rs. 3 lacs per month. In 1979, by order dated 8.10.1979 Yard stick for disbursement was revised from Rs. 3 lacs per month to Rs. 4 lacs per month. Prior to such revision of Yard stick the honorarium was paid at hourly rates revised from time to time. Disbursement of Rs. 2100/- was parameter equal to one ~~anx~~ hour for the purposes of working out the honorarium. After the revision of the Yard Stick, the rate of honorarium was also revised and was ~~raised~~ from Rs. 2100/- to Rs. 2800/- as one hours work. ~~The rate of honorarium per hour was Rs. 2800/- per hour.~~

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3. In 1983, the Chief Cashier Northern Railway, by its letter dated 13.4.1983, informed that the Financial Advisor and Chief Accounts Officer, in consultation with the recognised Unions, has decided that pending

final decision the Cashiers will be paid honorarium as per existing rates, subject to the maximum limit of 200 hours ~~per~~^{per} month or a maximum of 2400 hours in a financial year with effect from 1.4.1983 (Annexure-1). The effect of the aforesaid order, it is stated, is that irrespective of quantum of work the applicants have to do, they will be paid a maximum amount of honorarium equivalent to 200 hours work in a month, as a result ~~of~~^{amount of} the honorarium to be paid ~~to them~~ has been drastically reduced from Rs. 1856/- to Rs. 800/- only (Annexure-5). The aforesaid order, it is stated, has been passed without giving the applicants an opportunity to defend their case and as such ~~is~~^{is} violative of provisions of Article 311 of the Constitution of India and the principle of natural justice. The further case of the applicants is that the authority (F.A. & C.A.O.) which has passed the impugned order is not competent to pass the said order and as such the same is void ab-initio and not binding on the applicants. Hence this application for issuing a direction to the respondents not to give effect to the order dated 13.4.1983 and not to deduct the payment of honorarium on the basis of the said order and for issuing a direction to the respondents to pay honorarium to the applicants as was being paid before the issuance of impugned order dated 13.4.1983 with arrears.

4. The respondents have appeared and contested the case. In the written reply filed on behalf of the respondents, it has been stated that the Railway Board has empowered the respective F.A. & C.A.O. of all the the Zonal Railways ~~of~~ to fix honorarium of work for Cashiers according to the local conditions. The impugned order, it is stated, has been passed under the authority delegated by the Railway Board to the F. A. & C. A. O.

The further case of the respondents is that the revision of yard stick and the rate of honorarium is based on the job analysis done by the experts and as such is realistic and does not call for any interference by this Tribunal.

5. We have heard the learned counsels for the parties and perused the record. The aforesaid stated factual position which is by and large undisputed has given rise to the two questions (i) Whether the F.A. & C.A.O. has the authority to pass the impugned order and (ii) if so, whether the order is arbitrary.

6. F. R. 9(9) defines honorarium as a recurring or non-recurring payment granted to a Government servant as remuneration for special work of occasional or intermittent character. Under rule 1334 of the Railway Establishment Code, a competent authority may grant or may permit a government servant to receive honorarium as remuneration for work, performed which is of occasional or intermittent character and is outside the normal sphere of duties of a Government servant concerned.

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7. From the above it follows that the honorarium is admissible only for the work done which is occasional or intermittent in character and is outside the normal sphere of duties of a Government servant and that honorarium cannot be claimed as matter of right unless it is backed by a statutory provision. In view of this, the question that falls for our consideration is whether the duties performed by the applicants for which the honorarium is being given falls within the category of work occasional or intermittent in character or outside the normal sphere and duties of a Cashier.

The averments made in para 4 to 9 of the O.A. and duty chart annexed to letter dated 8.10.1979, Annexure-1 to the C.A. clearly indicate that the basic function of the Cashiers is to receive Cash, Cheques, and bills and disburse salary to the employees through Cash, Cheques, and by Money Order, according to mode of payment assigned to them and maintain Cash Book giving details of bills paid and unpaid.

8. From the annexures on the record and the pleadings of the parties, it appears that there has been increase in the salary of the employees serving in the Railways, consequent upon upward revision of their pay on the recommendation of the successive Pay Commissions. This has, obviously, increased the total amount received and disbursed by the Cashiers by way of salary. There has, thus, been increase in the amount which the applicants are required to disburse as salary to the employees. The Cashiers of the Northern Railway submitted representation in 1966 to F. A. & C.A.O. and to the Railway Board for creation of new post of Cashiers to meet the increase in the work load. The Railway Board, instead of increasing the post, issued instructions to the Financial Advisor and Chief Accounts Officer, Northern Railway, New Delhi vide D.O. letter dated 20.12.1968 to fix/evaluate the monthly Yard Stick of work of the Cashiers according to their local conditions. The F. A. & C.A.O. appointed Work Study Team for job analysis of the Cashiers and recommended that the monthly Yard Stick of work for senior Pay Clerk be fixed at Rs. 3 lacs and incentive to be paid for the amount so disbursed in excess of monthly Yard Stick on hourly basis.

9. The basis for giving incentive to the Cashiers thus, appears to be the increase in the quantum of work in Cash Section. The basic nature of ~~work~~ function of the Cashiers remain the same notwithstanding the increase in

the work in Cash Section. In that view of the matter, in our opinion, the reason for grant of honorarium is not in consonance with the rules. It may be argued that the applicants have been enjoying the benefit of honorarium for doing work in excess of the out turn fixed over the years and have thus, acquired a prescriptive right and as such the same cannot either be denied or curtailed.

Assuming for the sake of argument that the contention of the learned counsel is valid then also the right of the employer to regulate and vary the same on the basis of job analysis and local conditions including the changed circumstances and the capacity of an individual to perform the job, cannot be denied. It was argued on behalf of the respondents due to a variety of reasons including payment of salary to the employees in higher denominations currency notes, time consumed in disbursing the salary in currency notes of lower denominations has been considerably reduced. Therefore, revision of the monthly Yard Stick is justified. The reason for the revision of the Yard Stick in our opinion, does not appear to be unreasonable or arbitrary.

10. From the pleadings of the parties it also appears that the amount of honorarium that was being claimed by the Cashiers on the basis of the earlier Yard Stick was very high and some times it exceeded the net amount of salary received by the employee. The Railway Board therefore, directed the Financial Advisor and Chief Accounts Officer by letter dated 20.10.1981 for devising suitable measures to reduce the amount of honorarium to the bearest minimum. On receipt of the aforesaid instructions, a meeting of the Financial Advisor and Chief Accounts Officer (Principal Head of Department) was held with both the Unions in terms of

Section 18 of the Industrial Disputes Act, 1947 and in the said meeting it was decided that ceiling on payment of honorarium to the staff of Cash and Pay Department, be fixed at 200 hours in a month with effect from 1.4.1983. It was submitted that the Cashiers were claiming honorarium for hours between 700 to 1300 in a month. The copy of letter, Annexure-3 to the written statement to the Divisional Secretaries of both Unions by FA & CAO (West) gives the reason for the revision in the Yard Stick. We have perused the letter and we find that the reasons for the revision in the Yard Stick does not appear to be arbitrary. Therefore, the same does not call for any interference.

11. Learned counsel for the applicants further submitted that the order revising the Yard Stick and putting a ceiling on the honorarium admissible to the applicants has been passed by the FA & CAO who is not competent to pass the same and as such the impugned order is not legal and binding. We find no merit in this contention of the learned counsel for the applicant. The respondents have filed copy of D.O. letter dated 20.12.1968 from Govt. of India, Ministry of Railways to the FA & CAO, Northern Railway, New Delhi. From the said letter it would appear that the Financial Advisors and Chief Accounts Officer of the Zonal Railways have been authorised by the Railway Board to fix the work load for each Pay Clerk based on local conditions and the quantum of work that he can normally perform within the time available. It would thus, appear that the Railway Board has delegated the authority to the respective Financial Advisor and Chief Accounts Officers for fixing the Yard Stick for each Clerk based on local conditions and quantum of work that he can normally perform in the time available.

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12. Coming to the argument of the learned counsel for the applicant that the impugned order has been passed without giving notice to the applicants and as such is against the principle of natural justice, we find no merit in this argument. The impugned order itself speaks that Unions to which the applicants belong were party to the negotiations in which provisional ceiling on the maximum amount of honorarium to be paid was fixed. They were, therefore, represented and had the opportunity of explaining their stand through their representative of the Union. The respondents have not denied that the Cashiers have to go to outstations for disbursement of salary on dates fixed for payment of salary. The Cashiers who go on such tour, it is admitted, are paid T.A. and D.A. for the such journey according to Rules and if the payment date fixed is on a Sunday or a Gazetted Holiday, they are allowed compensatory holiday for working on those dates. These grounds do not change the nature of the duty of the Cashiers as may have warranted payment of honorarium.

13. For the reasons stated above, we find that there is no merit in this application and the same is dismissed leaving the parties to bear their own costs. Before parting with the case we may observe that in case there has been increase in the work load of Cashiers which existing strength is not capable of coping with, the proper course for the administration was to augment the present strength by creating more post of Cashiers as may be necessary. In case the increase in the work load is temporary in nature, ~~in such a case~~, the proper action would have been to make over time payment for working beyond normal working hours as is done in other Industrial Establishments. Another viable alternative would have been

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an upward revision of the pay structure of the Cashier keeping in view the work content. We, however, leave the matter to respondents to consider and take appropriate decision thereupon.

Sharma
Member-J

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Member-A

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