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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration T.A.No.739 of 1986(T)

Bankey Behari Lal Mathur & Others..... Applicants

Vs.

Union of India & Others..... Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicants have filed a Civil Suit before the Court of Munsif, Jhansi praying for a decree for declaration that their pay which was fixed at the time of their postings in the Stationary Cadre was not according to the Rules and the Law and the respondents be directed to fix and to re-fix the pay of the applicants with effect from their postings in the Stationary Cadre in accordance with the Directions given in the Judgment of the High Court at Allahabad dated 12.3.79 with all the benefits of such re-fixation including arrears of pay and seniority. The applicants were working on the posts mentioned against their names i.e. Dy. Chief Controller, or Section Controller, Jhansi. They were working in the running cadre posts prior to their postings in the stationary cadre and one of them plaintiff no.2 has already retired from service. The grievance of the applicants is that their pay has not been correctly fixed after they were sent to the stationary cadre. They were paid a salary much less than the one to which they were actually entitled. With the result they have suffered not only monetarily but in their status and rank also. The running allowance which they were earning at the time of their working upon the running cadre posts was either not included in the pay fixed at the time of their postings in the

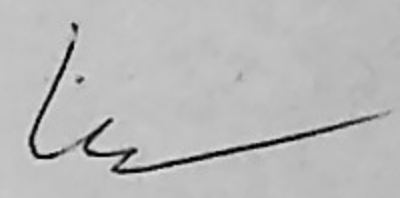
stationary cadre or a very small part of the said running allowance was included. According to the applicant after the decision of the Division Bench of High Court referred to above and certain other Bench's decision which followed it the applicants should have also been given the same benefit but it was not given to them although the applicants were waiting for it and ultimately when they found that the benefit will not be given to them then they have no option but to file a Civil Suit.

2. The respondents have resisted the claim of the applicant and have stated that there is nothing in the judgment that would govern the cases of all the employees including the applicants. Obviously when the question was decided by the High Court and the respondents went upto the Supreme Court and they lost the case, they should have applied it to all the employees but instead of applying it to all of them they applied it to some which led the applicants to approach the Court of Law. Meaning thereby unless a person will not litigate notwithstanding the fact that a binding judgment is there and the Govt. will not apply it. This is a strange reason given by the Government in his Written Statement. The judgment on which reliance has been placed by the applicants was Special Appeals Nos. 10 to 13 of 1975 decided on 12.3.1979, and incidently the said judgment was delivered by me and it was held that the running allowance is to be treated as part of the pay of such persons and the pay of such persons should be fixed in accordance with Rule 2027 and also in accordance with the Railway Board's decision of the year 1961, 62 and 63 and it is clear that the Railway Administration was directed to fix and to re-fix the pay of the person involved in the cases in accordance with the direction

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given by the Court. According this application is allowed and the very same directions are given in this case and the respondents are directed to give the benefit of the said judgment to the applicants ^{also} by fixing the pay of the applicants in ^{accordance with} ~~view of~~ the directions given by the High Court ^{at Lucknow} in its judgment dated 12.3.79 in Special Appeals Nos. 10 to 13 within a period of 3 months from the date of communication of this order. *No order as to costs*



Vice-Chairman.

28th April, 1992, Alld.

(sph)