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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Transfer Application No. 1360 of 1987

K.B. Chaturvedi and Others Applicants
Versus
Union of India and Others Respondents

CORAM:

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

Hon'ble Mr. K. Obayya, Member(A)

The applicant joined the East Indian Railway as a B Grade Guard on 4.6.1943. He retired from service in the year 1976. During his service in the Railways the applicant performed his duties as Vigilence Inspector Northern Railway from 1956 to 1959, as Railway Sectional Officer JU from 1959 to 1962, as V.I. Inquiry 1962 to 1967, and as Asstt. Manager in Food Corporation of India from June 1968 to November 1971, as Section Controller from 12.12.1971, as Deputy Chief Controller from September 1972 and thereafter he was sent on deputation to Triveni Structurals Ltd Naini Allahabad as Senior Transportation Officer, and finally took voluntary retirement from the Railways on 5.9.1976 having been absorbed in the Triveni Structurals. The jobs of Section Controller, Vigilence Inspector, R.S.O and Deputy Chief

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Controller fall under the category of stationery duties and the applicant was selected for those on his first selection as RTA in 1959.

2. The grievance of the applicant is that ~~this~~ his pay was not fixed according to rules and regulations from 29.5.1959. Prior to his selection as RTA, the applicant was utilised on various ex-cadre posts. That on being appointed to stationery duties their pays were refixed but somehow the rules and regulations were over looked and the applicant also not being technically proficient in such matters accepted what ever was paid to them. That the applicant had entered Railway service as a Guard on promotion as a Relieving Transportation Apprentice for short, RTA performed stationery duties from 29.5.59 till his retirement in 1976 from the railways on his pay being fixed wrongly he represented to the Railways and that finally the Railways refixed his pay on 22.12.1973 vide the refixation sheet. The perusal of this sheet itself shows that the authorities clearly failed to abide by the direction in this regard available in the Railway Establishment Code and the relevant orders of the Railway Board and the President of India in adding up the 2 allowances 75% of Pay as Running allowance plus 50% of the total pay of and the Running allowance in fixing the applicants pay on Stationary duties which has resulted in a financial loss even till date as he is drawing a much smaller amount as his pension than what he would have got on a proper refixation of pay.

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The applicant has been making representations and ultimately in the end he filed this application.

A perusal of the Railway Board's decision shows that running staff is entitled to 50% of the running allowance towards the pay which is to be calculated in accordance with rules. In this connection it will also be relevant to note that the Railway Board vide its letter published in the Gazette of 16.8.61 quoted President's decision the relevant portion of the same reads as follows:

" The question had been considered and the President is pleased to decide that the pay of such running staff utilised in stationery appointments for periods of over 21 days, whose initial pay in the stationery appointment is fixed under the normal rules in accordance with para 1(b) (ii) of Railway Board's letter No. E(R) 49 RS/3, dated 1.7.1949 should also be refixed under clause (B) of rule 2027(FR-31) R. II, 50% of the enhanced substantive pay representing the running allowance being treated as pay for the purpose of such refixation".

Now the said application was allowed and it was directed that the pay may be fixed after taking into consideration the Running allowance during the period for officiating appointment to the stationery posts.

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3. The learned counsel for the applicant drew our attention to our judgement dated 27.4.92 in T.A. No. 1905/87 in which after relying the said decision we have taken a particular view and we have passed the following order in which we have said that "The applicant obviously is entitled to the benefit of the said judgement dated 12.3.1979 and a time was fixed during which the same was given effect to. Sri G.P. Agrawal, learned counsel for the respondents made reference to the case of O.A. No. 150/91 decided by a Bench of this Tribunal which was not aware of the fact that the said judgement later on referred by the Supreme Court and in the said judgement even the Railway Board's circular and President's decision was not taken into account and although no such clear distinction was found and the observations, but rather it was found that the observation ~~extractive~~ means no room for doubt that/certain percentage of running allowance is part of pay that is why it has been laid down in the instructions of 1961-1967 and has been observed by the Division Bench of Allahabad High Court, we have found that what was happened by. Thus there is no deviation from the said judgement.

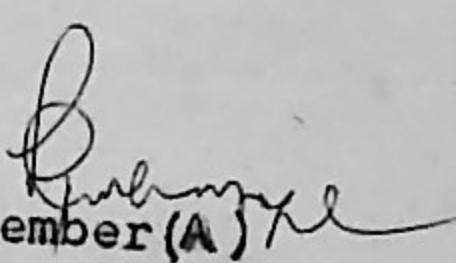
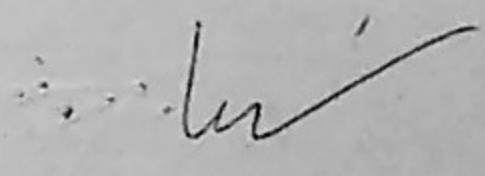
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4. Accordingly, the respondents are directed to give benefit of the said judgement

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in Spl. Appeal Afsar ~~Wajia~~ Jahan Begum Vs. U.O.I
and Others to the applicant/should also be given
pay pensionary and other benefits within a
period of three months from the date of communica-
tion of this order. No order as to the costs.


Member (A) 

Vice Chairman

Dated: 18th January: 1993

(Uv)