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CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

....

Registration O.A. No. 1151 of 1988

Chandra Madhav Prasad & ors.... Applicants

vs.

Union of India & ors

Respondents

Hon' Mr. K. Obayya, A.M.

This application has been filed under section 19 of the Administrative Tribunals Act No.XIII of 1985, with a prayer to issue direction to respondents to fix the pay of the applicants on proforma basis with effect from 1-10-1980 or from the date of their entry into service on the basis of the Railway Boards' letter No.PC III/81/UPG/7 dated 18.6.1981. Their further prayer is that the orders of this Tribunal in Registration No. 132 of 1986 should be applied to their cases also.

2. The case of the applicants is that they are all junior Clerks working in the Eastern Railway at Mughalsarai in grade II scale of Rs.260 - 400. Except applicant No. 4 who was appointed on 12-8-1976, the others were appointed on different dates during 1980 to 1983. They were eligible for selection to the higher grade I in scale of Rs.330 - 560 in the 13 1/3% quota reserved for serving graduates. They appeared for the examination conducted by Railway Service Commission limited to the departmental candidates and were declared successful in the said examination and empanelled. Consequently their pay in the higher grade was fixed w.e.f. 30-1-1985 on proforma basis, current payable from 5-1-1987. Their plea is that by virtue of Railway Board's letter No.PC/III/81/UPG/7 dated

18.6.1981 and 31.7.1981, they are entitled for proforma upgradation w.e.f. 1980. They represented to the authorities in this regard, but no orders were passed. Some of their colleagues included in the same panel along with the applicants moved this Tribunal and in Registration No. 132 of 1986 obtained favourable orders to fix their pay on proforma basis w.e.f. 1-10-1980.

3. According to respondents the pay was fixed correctly, since some of the applicants were appointed after 1980, they are not entitled for up gradation w.e.f. 1-10-1980. They conceded that the judgment of this Tribunal in Registration No. 132 of 1986 was complied with, proforma fixation of pay was done w.e.f. 1-10-1980. But, these orders are confined only to the applicants in that petition and would not apply to others.

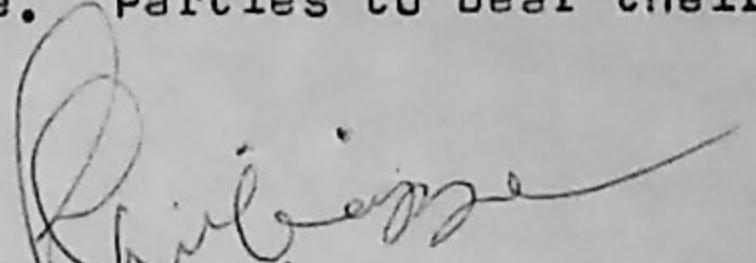
4. Heard the arguments of both the parties and perused the documents on record. The learned counsel for the applicant cited the case decided by Calcutta Bench of the Tribunal in T.A. No. 1301 of 1986 (C.R. 8729(W) of 1981) dated 4.8.1989 and also the case decided by Hyderabad Bench in T.A. No. 157 of 1986 (W.P. No. 16062 of 1984) dated 16.1.1989. In the above cases the petitions were allowed and the applicants were given the benefit of proforma fixation w.e.f. 1-10-1980.

5. In Registration No. 132 of 1986 of this Tribunal the entire issue relating to proforma fixation of pay arising out of orders of Railway Board in PC/III/81/ UPG/7 dated 18.6.1981 was discussed. It was observed that the spirit of Railway Board's letter dated 18.6.1981 was that the upgradations were to be made from 1-10-1980 though they were to be effective from the date the qualified candidates took over the charge of higher grade.

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Their pay had to be fixed proforma basis keeping the dated 1-10-1980 in view. It was held that fixation of pay on the basis of para 2 of the Railway Board's letter dated 18.6.81 from 1-10-80 is valid and justified. The facts in this case are also similar and I am of the view that the applicants are entitled for the same benefits on par with their other colleagues who were applicants in O.A. No. 132 of 1986. Since the applicants No.4 was in service prior to 1980, he should be given proforma fixation w.e.f. 1-10-1980. The other applicants are entitled for this benefit from the date of their joining the service. The respondents are directed to fix the pay of the applicants accordingly, within a period of two months. The application is allowed as above. Parties to bear their own costs.


MEMBER (A)

(sns)

December 8, 1989

Allahabad.