

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 640 of 1992

S.N. Upadhyay Applicant.

Versus

Union of India
and another Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member(A)

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

The applicant was appointed on 3.12.1959 as Junior Clerk in the Scale of Rs. 110-180. The applicant was given benefit of the circular of the Railway Board dated 11.7.1979 which directed the General Manager to grant Rs. 35/- Special Pay to the Senior Clerk in the Scale of Rs. 330-560 whose work is complex and important nature involving deep study. The applicant was paid Rs. 35/- as Special Allowance per month since 5.6.1979 to 28.11.1979 when he was working as Senior Clerk in the office of the Senior Civil Engineer Railway Electrification, Northern Railway, Allahabad. The applicant represented on 1.6.1981 for Payment of Special allowance amounting Rs. 35/- since 29.11.1979 to 16.3.1980 when he was working as Senior Clerk under Deputy Controller of Stores Railway Electrification, Allahabad. The applicant has placed reliance on the letter dated 27.11.1987 by which a direction was issued to pay Rs. 35/- per month as Special Pay and this amount shall be taken into account for fixation of pay on promotion.

2. The respondents have opposed the claim of the

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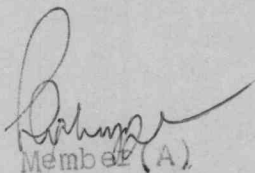
applicant and have stated that the circular has been mis-read and mis-understood by the applicant and the applicant is not entitled to the said benefit. The applicant was put to officiate as a Head Clerk from 15.11.1972 to 8.11.1976 w.e.f. 1.1.1984 in his parent cadre. He was promoted as Assistant Superintendent in the Scale of Rs. 550-750 on 27.2.1985 against Ex-cadre post. in the Railway Electrification and regularised w.e.f. 10.5.1991 on proforma basis in his parent cadre.

3. The applicant was working on the ex-cadre post and it is the department which itself subjected ^{him} to work on the ex-cadre post and later on again he was regularised on proforma basis @ in his parent cadre. Thus, if he was working on the ex-cadre post, it was more or less a sort of deputation on the ex-cadre post and @ not that he voluntarily shifted on the Ex-cadre post. If the persons those who are working on the Work Charge post and are entitled for the Rs.35/- as Special Pay, the applicant could also have been considered for the same. So far as the case of Shri N.P. Tripathi is concerned, the same cannot be put on the same par because Sri. N.P. Tripathi was granted special pay in his parent department. On the merits of the case it has been stated that the withdrawal of incorrect fixation of pay in ex-cadre posts, have been ordered in Terms of Railway Board letter dated 23.9.1971 and 31.12.1985. In these letters, it has been decided on appointment to a second or subsequent ex-cadre post in a scale or pay higher than that of the previous ex-cadre post, the pay may be fixed with reference

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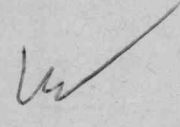
to the pay drawn in the cadre post and if the pay so fixed happens to be less than the pay drawn in the previous ex-cadre post, the difference may be allowed as personal pay to be absorbed in future increases in pay. In the circular dated 24.1.1989, it has been stated that incorrect fixation of pay under FR-22/C should be withdrawn and fixation of pay from time to time regulated only in terms of Board's ~~orders~~ orders vide their letter dated 31.12.1985 as well as earlier orders in force.

4. Accordingly, in case the worked Charged employees are entitled for special pay, the applicant could have been considered for the Special pay. Accordingly, the applicant's case may be reviewed for the period in which there was no withdrawal circular. The application is disposed of with the above terms. No order as to the costs.


Member (A)

Dated: 1.12.1992

(n.ul.)


Vice-Chairman