

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 15TH DAY OF JAN: 2002

Original Application No. 486 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Paras Nath Rai, retired office
Supdt., office of Sr.D.E.E,N.E.Railway
Varanasi.

... Applicant

(By Adv: Shri V.K.Srivastava)

Versus

1. The Union of India through
G.M., N.E.Railway
Gorakhpur.
2. The Divisional Railway Manager
N.E.Railway, Varanasi.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA the applicant has prayed to quash the order dated 30.9.1993 by which his claim for payment of special pay of Rs35/- has been rejected. He has also prayed for a direction to the respondents to fix the salary of the Head clerk taking into account the special pay of Rs35/- as it was done in respect of Ram Lal Ram who was junior to the applicant.

The facts in short, giving rise to this application are that applicant joined as Temporary clerk on 4.7.1956. The applicant was confirmed on the post on 3.3.1965. He was promoted as Senior Clerk on 22.3.1965. The case of the applicant is that as Senior clerk he was entitled for a special pay of Rs35/- being one of the seniormost. The respondents instead of giving special pay to the applicant gave it to Ram Lal Ram who was junior to him and thus injustice has been caused.

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Resisting the claim of the applicant a counter reply has been filed, where-in it has been stated that as per rules at a time only two persons can be granted special pay according to order of seniority amongst senior clerks. It is submitted that before applicant could be granted special pay, and he was already promoted to the post of Head clerk on 6.10.1983, thus, there was no occasion to grant him special pay. A chart has been shown in the counter reply giving the position of seniority and the payment of special pay to Senior clerks from time to time. From perusal of this chart it appears that Dinesh pandey who was immediate senior to the applicant was granted special pay from 10.12.1980 to 1.9.1983. He was also promoted on 6.10.1983. There is no reason indicated in the counter why in the month of September 1983 Dinesh Pandey was not paid any special pay upto 5.10.1983, before he was promoted as Head Clerk. If there was any legal and valid reason to deny special pay to Dinesh Pandey from 2.9.1983 to 5.10.1983 the applicant was there next claimant to get the special pay and before he was promoted on 6.10.1983 atleast in one month he would have received ~~any~~ special pay of Rs.35/- on which basis he was entitled for fixation of pay in the next grade. Before passing the impugned order dated 30.9.1983 this aspect has not been examined.

For the reasons stated above, in our opinion the applicant is entitled for the following relief. The impugned order dated 30.9.1983 is quashed and the respondents are directed to re-examine the matter and pass a fresh order within a period of three months from the date a copy of this order is filed before him regarding the claim of applicant for payment of special pay in the light of the observations made above. If the applicant is found entitled, he shall be paid benefits within four months from the date order is passed by competent authority. No order as to costs.

MEMBER(A)

VICE CHAIRMAN

Dated: 15th Jan:2002

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Uv/