

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 227 of 1999

Allahabad, this the 11th day of September, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON'BLE MR. D.R. TIWARI, MEMBER (A)

Pradeep Kumar Srivastava,
S/o Late S.M. Srivastava,
aged about 43 years,
R/o 243, Bhusauli Tola,
Khuldabad, Allahabad.

Applicant.

| By Advocate | : | Shri S.S.Sharma |

| :# Versus | : |

1. Union of India owing and representing 'Northern Railway', notice to be served to - The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Officer-on-Special Duty, North Central Railway, Headquarters Office, Allahabad.
3. The Divisional Railway Manager, Northern Railway, D.R.M. Office, New Delhi.
4. The Senior Personnel Officer, North Central Railway, Headquarters Office, Allahabad.

Respondents.

| By Advocate | : | Shri A.V.Srivastava |

|| O R D E R ||

| By Hon'ble Mr Justice R.R.K.Trivedi, V.C. |

We have heard Shri S.S.Sharma, learned counsel for the applicant and Shri A.V.Srivastava, learned counsel



for the respondents.

2. By this O.A. filed under section 19 of Administrative Tribunals Act 1985, applicant has challenged the order dated 28.5.1998 (Annexure-A-I) by which fixation of pay on his promotion as Head Clerk, was refused.

3. The facts of the case are that applicant was appointed as Office Clerk in the pay scale Rs.260-400/- on 11.8.1982 through Railway Service Commission, Allahabad. The applicant was posted in Northern Railway Construction Organisation under the Chief Engineer (Construction), Northern Railway, Kashmere Gate, Delhi-6. The lien of the applicant was fixed in the Delhi Division. The applicant was promoted as Senior Clerk in the scale Rs.330-560/- in his parent division on 31.12.1983 and he was granted Special Pay Rs.70/- per month w.e.f. 01.01.1997 in the grade ^{Rs.} /4500-7000/-. On acceptance of the recommendation of the 5th Pay Commission Railway Board decided that 10% of the posts of Senior Clerks ^{who} are being paid Special Pay of Rs.70/- ^{were upgraded} in recognition of complex nature of duties rendered by them. The recommendation of the 5th Pay Commission was upgradation of such post of Senior Clerks carrying special pay Rs.70/- to the post of Head Clerks. The Board accordingly decided as under :-

" 2. It has now been decided with the approval of president that such of the posts of Senior Clerks in grade Rs.4500-7000 as carry a Special Pay of Rs.70/- in connection with complex duties, may be upgraded to the post of Head Clerks in the scale of Rs.5000-8000 and payment of Special Pay be discontinued w.e.f.01.1.1996. The upgradation will be subject to the following conditions : -

(i)x, (ii)x, (iii)x now come to-

(iv) In the case of Senior Clerks who have been appointed to the post of Senior Clerk with Special Pay after 1.1.96, the Special Pay would not be counted for fixation in scale Rs.5000-8000, as the Special Pay would be deemed to have ceased to exist w.e.f. 1.1.96. However, these persons would now become eligible for being placed in the revised scale Rs.5000-8000 from the date they started getting Special Pay of Rs.5000-8000 per month. (v)x.

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3. In both types of cases, i.e. staff getting special pay as on 1.1.96 and those who started getting special pay after 1.1.96, the actual placement in the revised scale of Rs.5000-8000 may be made after following the laid down procedure of promotion of Senior Clerk to Head Clerks. Similar procedure will continue to be followed in the case of staff who get promoted to be grade of Rs.5000-8000 in future."

The order ~~of~~^{of} promoting, the applicant as Head Clerk, was passed on 09.10.1997(Annexure-A-II). On receipt of the Railway Board circular the questions arose for fixation of pay. Respondents fixed the pay of the applicant by order dated 09.3.1998 which shows that Rs.70/- Special Pay was granted to applicant on 29.1.97. During the pendency of this O.A. respondents filed M.A.1763/03 together with an order dated 21.2.2003 stating correct fixation of pay of the applicant. It has also been paid that in view of the correct fixation of pay the O.A. ^{has been} rendered — infructuous and it may be dismissed. The applicant filed the supplementary Rejoinder.

4. Shri S.S.Sharma, learned counsel for the applicant has submitted that in view of the para IV of the Railway Board's letter dated 17.8.1998 applicant was entitled for the scale of Rs.5000-8000 from the date he started getting special pay Rs.70/-. In the present case it is not ~~doubted~~^{disputed} that ~~it has been stated~~^{to applicant} that the ~~correct~~^{scale of} pay of Rs.5000-8000 was granted / from 1.11.1997. The dispute is now confined as to whether the scale of Rs.5000-8000 should be given from 29.1.1997 or 1.11.1997. In our opinion, in view of the categorical statement contained in para IV of the Railway Board Circular dated 17.8.1998, the applicant is entitled for the scale of Rs.5000-8000 from 29.1.1997 and the scale given to him from 1.11.1997, is not correct as stated in the order dated 21.2.2003.

5. Shri A.V.Srivastava, learned counsel for the respondents also submitted that the applicant was awarded punishment and his increments ^{were} withheld for the period of

2 years by order dated 24.5.1995 (Annexure-CA-IV). The respondents' counsel's submission is that applicant could not get promotion to special pay of Rs.70/- in view of the currency of the punishment. However, we do not find any force as in the pay fixation of the applicant, filed as Annexure I/^{of} Supplementary Rejoinder Affidavit, ^{at} The punishment was given effect, while granting increments on 01.11.1995 and 1.11.1996 which is clear from the letter dated 09.3.1998. Thus on 29.1.1997 there was no punishment pending against the applicant and he was rightly granted Special pay of Rs.70/-.

6. Considering the facts and circumstances, we dispose of this O.A. with the direction to the respondents to correct the pay fixation of the applicant in terms of para IV of the Railway Board's circular dated 17.8.1998 as discussed above ^{and give him benefit}. This order shall be given effect within six months from the date of receipt a copy of this order.

7. There shall be no order as to costs.

Ida
Member (A)

[Signature]
Vice-Chairman

Brijesh/-