

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 29th day of May, 2001.

Original Application No.310 of 1999.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Piyush Verma S/o Late Shri K.N. Verma,
Presently posted as Head Clerk
in the Office of the Deputy Chief
Commercial Manager (Claims),
Northern Railway, Varanasi.

(Sri ABL Srivastava, Advocate)

..... Applicant

Versus

1. Union of India through General Manager,
Northern Railway, Baroda House,
New Delhi.

2. Deputy Chief Commercial Manager (Claims),
Northern Railway, Varanasi.

(Sri AV Srivastava, Advocate)

..... Respondents

O R D E R (Overall)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 27-11-1998 passed by Dy. Chief Commercial Manager, Northern Railway, Varanasi by which he has stopped payment of special pay of Rs.70/- per month to the applicant and further not to deduct the amount already paid to the applicant as special pay from his salary.

2. The claim of the applicant is that while he was serving as Senior Clerk, he was sanctioned special pay of Rs.70/- per month on ad hoc basis by order dated 29-8-1995

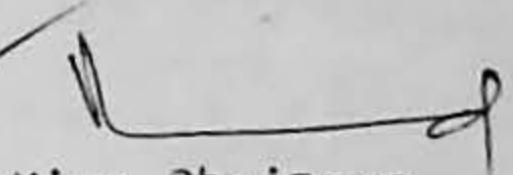
(Annexure-A-1 to the OA). The applicant continued to receive the same. By order dated 13-3-1996 (Annexure-A-2 to the OA) the said special pay was regularised and the applicant was asked to work in place of Sri K.N.Kool on regular basis. The applicant further states that subsequently he was promoted to the post of Head Clerk by order dated 29-4-1997 and the amount of Rs.70/- per month as special pay ~~is absorbed~~ merged with pay as provided in Railway Board's Circular. The grievance of the applicant is that without giving any opportunity of hearing the ~~Applicant~~ ^{respondents} have concluded that the special pay was wrongly paid to the applicant beyond the prescribed limit and a recovery has been directed.

3. Sri A.V. Srivastava, learned counsel for the respondents on the other hand submitted that as the strength of the cadre was reduced from 90 to 83 ^{Consequently, the number of employees of the cadre was also reduced from 90 to 83. The percentage of 10% has to be reduced to 8%} The applicant being 9th person has rightly been held that he was not entitled for payment of this special pay. However, Sri AV Srivastava, counsel for the respondents could not dispute the fact that the impugned orders have been passed without giving any opportunity of hearing to the applicant and without considering his point of view in this matter. Considering the facts and circumstances of the case, we dispose of this OA finally with liberty to the applicant to make a detailed representation, mentioning all facts which have been ~~sought~~ ^{mentioned} in this OA ~~and file~~ before respondent no.2 within a period of one month. The representation, if so filed, shall be considered and decided by a reasoned order after giving personal hearing to the applicant within a period of two months. Till the representation is decided or for a period

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"whichever is earlier" of two months, the recovery of the amount shall remain suspended. In case the applicant's contention is accepted, the entire amount ~~or recovered~~ shall be paid back to him. The OA is disposed of accordingly. There shall be no order as to costs.


Dube
Member (A)


Vice Chairman

Dube/