

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 15th day of May, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION NO. 508 OF 2000

1. Hori Lal, son of Todi Lal,
working as Fireman-I,
under Section Engineer,
North Eastern Railway,
Bareilly City.

2. Prem Prakash Shama,
son of Maha Nand Shama,
working as Fireman-I,
under Crew Controller,
North Eastern Railway,
Pilibhit.

3. Ram Nath, son of Sri Mahendra Pal,

4. Ramesh Chandra Shama,
son of Sri Ram Chandra Shama,

5. Radha Krishan,
son of Sri Jhunni Lal,

(All three working as Fireman-I,
under Senior Section Engineer,
North Eastern Railway,
Bareilly City.)

. Applicants

(By Advocate: Sri C.P. Gupta)

Versus

1. Union of India through the General Manager,
North Eastern Railway, Gorakhpur.

2.

2. The Divisional Railway Manager,
North Eastern Railway, Izatnagar.

3. The Chairman,
Railway Board,
Railway Bhawan,
New Delhi.

. Respondents

(By Advocate: Sri K.P. Singh)

ORDER (ORAL)

(By Hon'ble Mr. S. Dayal, AM)

This application has been filed for setting aside the order of Divisional Railway Manager (P), Izatnagar dated 15/16th March, 2000. The applicants have claimed that they were working as Foreman -I and were denied promotion to the grade of Rs.4000-6000/-. The applicants also claimed that prior to 1.1.96, they were in the grade of Rs.950- 1500/- and were drawing Rs.1500/- along with other emoluments amounting to Rs.4,936/- p.m. After the implementation of the Pay Commission Report, their pay was fixed at Rs.4,590/- p.m., which was Rs.346/- less than the pay drawn by them before 1.1.96. The applicants claimed that they were entitled to three increments besides stagnation increments as they were drawing from 13 upto 16 stage. We have on the basis of Railway Board's letter dated 8.10.97 found that they were entitled to Personal Pay, if their emoluments exceeded the maximum of the scale.

Note 5 to item 7 of the Notification dated 8.10.97

(Annexure No. A-3) reads as follows:-

"Note 5. Where the existing emoluments as calculated in accordance with Clause (A), Clause (B), Clause (C) or Clause (D), as the case may be, exceed the revised emoluments in the case of any Railway servant, the difference shall be allowed as personal pay to be absorbed in future increases in pay."

The applicants were granted personal pay in the light of this provision. The applicants were paid arrears of salary and drew the pay as fixed by the order dated 15.7.99 (Annexure No. A-2). They were, however, subjected to recovery of Rs.800/- p.m. from the month of March, 2000, vide order dated 15/16th March, 2000 of Divisional Railway Manager(P).

2. We have heard arguments of Sri C.P. Gupta and Sri K.P. Singh for the respondents.


3. We find that the applicants have made a representation dated 10.4.2000 to the Respondents, in which they specifically stated that they were not served any notice before their salary was reduced and the recovery of overpayment was started. The applicants have claimed that this representation still remains undecided. Thus, it is clear that the orders regarding pay fixation have been changed without giving notice to the applicants. The orders as far as they relate to the applicants are set aside with liberty to the respondents to pass fresh orders with regard to the applicants after giving notice to the applicants.

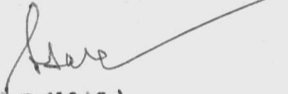
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4.

4. As far as the recovery of overpayment on account of the revised orders is concerned, the same is not permissible in the light of orders of the Apex Court in the case of Shyam Babu Verma & ors. Vs. Union of India/(1994) 27 ATC 121 and in the case of Bhagwan Shukla Vs. Union of India & others (1994) 28 ATC 258. The applicants shall, therefore, be entitled to refund of the amount recovered by the respondents on account of revised fixation of pay. This shall be given to the applicants within a period of three months from the date of receipt of this order.

There shall be no order as to costs.


 (RAFIQ UDDIN)
 JUDICIAL MEMBER


 (S. DAYAL)
 MEMBER (A)

Nath/