

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 11TH DAY OF NOVEMBER, 2002

Original Application No.412 of 2002

CORAM:

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

HON.MR.S.JHA, MEMBER(A)

Bhikam Singh, son of Late Man Singh
R/o House No.9/51, Charsa Mandi,
Moti Bagh, Jamuna Bridge, Agra.

... Applicant

(By Adv: Shri C.P.Gupta)

versus

1. Union of India through the
General Manager, Northern Railway
Baroda House, New Delhi.
2. The Divisional Railway manager
Northern Railway, Allahabad.

... Respondents

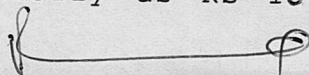
(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

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

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the order dated 3.10.01 by which his request to step up the pay has been rejected.

The facts in short, giving rise to this application are that applicant Bhikam Singh was promoted as Head Clerk in the pay scale of Rs1400-2300 w.e.f. 1.8.1986 and was drawing salary of Rs 1660/- per month. His name appeared at sl.no.83 in the seniority list of head clerks as on 31.3.1990, while the name of his junior Sri P.C.Adhar was not even included in the list. Sri Adhar was promoted as head clerk in December 1990 and his pay was fixed at Rs 1720/- per month, while the pay of the applicant was fixed at Rs 1660/-(corrected by the learned counsel orally as Rs 1640/- per month). The



applicant made representations for stepping up the pay. As no action was taken he filed OA No.1150/95 in this Tribunal which was finally disposed of by order dated 27.7.01 by following direction.

"The learned counsel for the applicant mentions that the respondent no.2 is the authority competent to decide his representation. We, therefore, direct the respondent no.2 to decide the representation of the applicant dated 28.11.1994 by a reasoned and speaking order within a period of three months from the date of receipt of copy of this order. For facilitate disposal of his representation, the applicant shall furnish a copy of the same to the respondent alongwith copy of this order."

In pursuance of the aforesaid direction representation of the applicant has been rejected by the impugned order dated 3.10.01. The reason stated in the order is that as Shri P.C.Adhar was being paid a special pay of Rs 70/- in capacity as Senior Clerk, for discharging duties of complex nature, This amount of Rs 70/- was added in his pay scale and thus he is drawing higher pay scale than the applicant and the applicant is not entitled for any relief. The aforesaid controversy has been considered by Hon'ble Supreme Court in case of 'Union of India and Others Vs. P.Jagdish and Others', (1997) Supreme Court Cases 176. The Hon'ble Supreme Court answered the question in the following manner:

"This principle of stepping up which we have upheld would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reason that the

respondents had not worked in the post to which 35%(sic Rs 35 as) special pay was attached in the lower cadre. But by reason of promotion the promotee-juniors who worked on the post, in fact, performed the hard duties and earned special pay. Directions to pay arrears would be deleterious to inculcation of efficiency in service.

All persons who were indolent to share higher responsibilities in lower posts, on promotion would get accelerated arrears that would

be deleterious to efficiency of service. Therefore, though direction to step up the pay on notional basis is consistent with


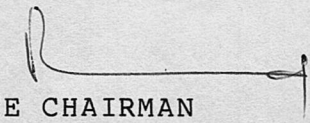
Article 39(d) of the Constitution, it would be applicable only prospectively from the date of the promotion and the fixation of the scale, stepping up of the scale of pay would be prospective to calculate future increments on the scale of pay in promotional post only retrospectively. The appeal is dismissed but in the circumstances there would not be any order as to costs."

The similar view was expressed by the Hon'ble Supreme Court in case of 'Union of India and another Vs. B.Sarkar (1999) SCC(L&S)-96 following the aforesaid view this Tribunal also passed similar order in judgment dated 1.12.00 passed in OA No.347/97 Raghaverndra Pratap Singh and Others Vs.Union of India and Others. As the similar dispute has already been settled by the Hon'ble Supreme Court and this Tribunal, in our opinion, applicant is entitled for the same relief.



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The OA is accordingly allowed. The order dated 3.12.01 (Annexure 1) is quashed. The respondents are directed to fix salary of the applicant in accordance with the law laid down by Hon'ble Supreme Court within a period of four months from the date of filing a copy of this order. The applicant shall ^{also} be entitled for recalculation of the pension together with the arrears which shall be paid to him within the period fixed above. No order as to costs.

 
MEMBER(A) VICE CHAIRMAN

Dated: 11th November, 2002

Uv/