

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

18

O.A.NO/506/90
T.A.NO.

th
DATE OF DECISION 29 March 2000

A.K.Chandaniya

Petitioner

Mr. K.K. Shah

Advocate for the Petitioner [s]

Versus

Union of India and another

Respondent

Mr. N.S.Shevde

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr.

V. Ramakrishnan, Vice Chairman

The Hon'ble Mr.

A.S.Sanghavi, Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? ✓
- 2, To be referred to the Reporter or not ? ✓
- 3, Whether their Lerdships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? ✓

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A.K. Chandaniya
Railway Quarter No.103/B
Kothi Compound
Rajkot- 360 001.

Applicant

Advocate: Mr. K.K. Shah

Versus

1. Union of India
Notice to be served through
General Manager
Western Railway
Churchgate, Bombay- 400 020.

2. Divisional Railway Manager (E)
Divisional Office
Western Railway
Kothi Compound
Rajkot.

Respondents-

Advocate: Mr. N.S. Shevde-

JUDGEMENT

IN

Dated ^{1st} 29 March 2000

O.A./506/90

Per Hon'ble Mr. V. Ramakrishnan, Vice Chairman:

The applicant a Stenographer in the Railway Administration has claimed that he should be given the scale of Rs.1400-2300 instead of the scale of Rs.1200-2040 and that he should be paid arrears for the period as has been given to some other employees for the period they worked on the higher scale post.

2. We have heard Mr. K.K. Shah for the applicant and Mr. N.S. Shevde for the respondents.

3. The applicant joined as Typist in the Railways in 1973. He became a Stenographer and he was allotted to work under two officers since July 1983 and he was drawing pay in the scale of Rs.1200-2040. The applicant claims that he is entitled to the higher scale of 1400-2300 for the reason that firstly he has worked under two officers and secondly according to him, some other similarly situated officials have been paid in the higher scale.

Mr. K.K. Shah for the applicant draws attention to the Railway Board Circular dated 28.7.1979 as at Annexure A-6 which brings out that under the system of pooling of Stenographers when Stenographers are made to work with two Senior scale officers, they ~~are~~ should be paid in the higher scale of Rs.425-700 which is corresponding to the revised scale of Rs.1400-2300. Mr. Shah also refers to the letter dated 5.2.88 as at Annexure-A from D.R.M. Rajkot where he has stated that ⁱⁿ Rajkot Division ^{on} where the applicant was working there was a large number of officers who were in the senior scale or above and the applicant was made to work under Senior Divisional Engineer and Divisional Engineer. The Sr. Divisional Engineer was drawing

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pay in the scale of Rs.3700-5000 which is the Junior Administrative Grade and DEN drew pay in the scale of Rs.3000-4500 which is Senior scale. As per the yardstick Senior Scale officers are entitled to an independent Stenographer and they do not have to share a Stenographer with another officer. However, in Rajkot Division the sanctioned strength of Stenographer was only 22 whereas the Division was entitled to five more Stenos in the scale of Rs.1200-2040. The D.R.M. sent a proposal to the General Manager for creation of additional five posts vide his letter dated 5.2.88 as at Annexure-A. Despite this, for whatever reason the applicant had to continue to work under two senior officers but was paid only in the scale of Rs.1200-2040. Mr. Shah submits that when an independent Stenographer for each of the officers in the senior scale and above could not be made available and the previous pattern of two senior scale officers sharing one Stenographer was followed, the Stenographer should have been paid in the scale Rs.1400-2300.

Mr. Shah also submits that the applicant had been constantly pressing for being given the higher scale and also for charge allowance. He was informed by the D.R.M. that the position about Stenographer in Rajkot office has been intimated

to the General Manager with reference to applicant's case and further development would be advised on hearing from the headquarters.

Mr. Shah says that this amounts to an assurance to give higher pay scale and the respondents cannot go back on the same.

Mr. Shah also submits that similarly situated employees like Sudhakaran and D.P.Mehta who were attending to only one officer had been given the benefit of higher pay scale of Rs.1400-2300 whereas the applicant attending to two officers has been deprived of this benefit. For these reasons Mr. Shah says that the O.A. should be allowed.

4. Mr. Shevde for the Railways says that the guidelines provided for an independent stenographer for each Senior Scale officer and above and viewed in this context, there was a shortage of five posts in Rajkot Division. He says that the D.R.M.Rajkot had recommended for creation of five additional posts of Stenographers in the scale of Rs.1200-2040 but this was not sanctioned. This resulted in a situation where the Rajkot Division had to make do with the strength as available. There were a few posts of Stenos. in the scale of Confidential Assistant in the scale of 1400-2300 but all of them

had been filled up and none was vacant. The applicant therefore could not be appointed on even an ad hoc basis in the higher scale. The applicant has since been given ad hoc promotion to the higher scale from 6.12.90 as is brought out in the reply statement. Mr. Shevde also contends that the applicant claims to have worked under two officers from 1983 but has approached the Tribunal only in 1990. The applicant was attached to two officers who were mostly on line duty and he was attending to them only when they were in the office and that he did not shoulder any higher responsibility. Mr. Shevde further states that the earlier yard-stick was that if the Stenographer is attached to two Senior scale officers, a post in the scale of Rs.1400-2300 can be created but this decision was given up and a decision was taken to allot independent Stenos. to each of the senior scale officers but they will be in the scale of only 1200-2040. There was no scope for paying the applicant in the higher scale of Rs.1400-2300 when no such post in that scale was available.

Mr. Shevde also distinguishes the cases of Sudhakaran and Mehta referred to by the applicant and says that in their cases they were working

in the Construction Division and a post was available in the scale of Rs.1400-2300 against which they could be accommodated. He refers in this connection to the Memorandum dated 23rd November 1984 and 12.12.1986 as at Annexure A-8 which brings out that Sudhakaran was shouldering the responsibility of the higher post and could be fitted in the higher scale of Rs.1400-2300 as a sanctioned post in that scale was available with the Executive Engineer, Construction Division, Jamnagar. Similar is the case with regard to D.P.Mehta. In his case also a post in the scale of 1400-2300 was available in the construction division as it had been temporarily down graded but the post was restored to its original level later. Mr. Shevde says that neither Sudhakaran nor Mehta is junior to the present applicant as they are from different units and their cases are clearly distinguishable.

5. We have carefully considered the content of both sides.

As has been brought out above, the main grounds in support of the O.A. are that: the applicant was attached to two Senior Scale Engineers and secondly Sudhakaran and Mehta were given benefit of the higher scale.

So far as the first ground is concerned we note that the Railway Board had followed a practice from 1974-1979 that there should be pooling of Stenos for officers of the Senior Scale level and that the normal arrangement was attachment of a Stenographer in the grade of ^(pre-revised) 425-700 for two senior scale officers. This practice was changed on the basis of representations and it was decided that every senior scale officer would be entitled to a separate steno.

The D.R.M. was entitled to a stenographer in the ^{revised} scale of Rs.2000-3200 and the other officers in the senior scale and above are entitled to an independent stenographer in the Grade of 1200-2040 or 1400-2300 or 1600-2660 as the case may be.

In the case of officers in the junior scale two of them have to share one Stenographer. The D.R.M. Rajkot has contended in his letter to the General Manager which is dated 5.2.88 as at Annexure A that his division required additional five posts of Stenos in the scale 1200-2040. The Rajkot Division had already one post of confidential assistant in the scale 2000-3200, four posts of Confidential assistant in the scale 1600-2660 and seven posts of Confidential assistant in the scale 1400-2040 besides ten posts including two temporary po

two leave reserve posts in the scale 1200-2040.

The D.R.M. Rajkot contends that as per the officers strength the Division should get five more posts in the scale 1200-2040. It is stated that this was not agreed to. He had also not asked for additional posts in the scale 1400-2300 and above. There is a clear averment that all the posts in the scale of 1400-2300 had been filled up and none was vacant. In fact, we find from the memorandum dated October 16, 1989 as at Annexure A-10 that the applicant seems to have been promoted in the scale 1400-2300 purely on ad hoc basis for some time but he had to be reverted to the scale of Rs.1200-2040 when one Shri M.Vishwanathan who was earlier serving in the construction division but was holding lien in Rajkot Division came back to the Rajkot Division. It is not clear as to how long the applicant had officiated in the post in the scale of 1400-2300 but the fact remains that he had to be reverted to the lower scale of Rs.1200-2040 when the regular incumbent having lien in the post reported for duty. The various circulars including the Railway Board letter dated 28.7.1979 do not state that once a

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Stenographer is attached to two senior scale of officers, he will automatically get 1400-2300.

As stated earlier, this is a yard stick for considering creation of posts at various levels. In the present case the fact remains that no such additional post in the higher scale of 1400-2300 was created and in fact, was not even asked for. Whatever posts were there in Rajkot Division in the scale 1400-2300 had already been filled up and none was vacant. In the absence of a post, the applicant does not have an automatic right to be given the scale of 1400-2300 merely because he served two senior scale officers. This is quite apart from the contention of the Railways that the work load of the applicant was not much as he was working with two officers and he had to attend to them only when they were in the office and not on field duties.

The second contention is regarding grant of higher scale to Sudhakaran and Mehta. We find from the relevant memorandum as at Annexure-A 8 that Sudhakaran was working in the construction Division and it is clearly brought out that the post of Confidential assistant in the scale of Rs. 425-700 was available in that division and he

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shouldered the responsibility of the same. It is seen that initially Sudhakaran was posted in the scale of Rs.330-560 ^(for which the corresponding revised scale is 1200-2040) but when the Railways took the view that he had shouldered the responsibility of a higher post and in fact such a post was available which had only been down-graded for the relevant period. The position in respect of D.B.Mehta is same as is seen from the letter dated 21.4.90 as at Annexure A-9 and it is clear that a post in the scale 1400-2300 was available in the organisation where D.B.Mehta was working. So far as the present applicant is concerned, there was no such vacant post in the scale of 1400-2300 against which he could be accommodated unlike the case of Sudhakaran and Mehta when posts in the scale 1400-2300 were available in the organisation where they were working. It is also not the stand of the applicant that he is senior to D.B.Mehta or to Sudhakaran. These two were working in a Construction Division where the posts in the higher scale of Stenographers were available and also vacant against which they could be accommodated. This is not the position in respect of the applicant. This ground therefore does not assist the applicant.

6. In the light of the foregoing discussion we hold that the applicant is not entitled to be paid in the higher scale 1400-2300 as sought for in the present O.A. While the applicant had no legal right for a higher scale we note that the D.R.M. Rajkot in his letter dated 8.2.88 as at Annexure A- para 6 of this letter has stated as follows:-

"6. Besides being the above said facts Sr.DEN-II and DEN-III have only 1 Stenographer scale Rs.1200-2040 (RP) which is against the Boards directive as all these ~~two~~ 2 Officers are JA./Sr.Scale Officer and they are required to be provided separate Steno for each one looking to the work attached to their posts viz. The Stenographer scale Rs.1200-2040 (RP) Shri A.K.Chandaniya who is attending the above said 2 Officers has also claimed acting allowance for scale Rs.1400-2300 (RP) as CA on the grounds that he is attached to two Officers of the Senior Scale.

In view of the above said facts 5 additional posts of Stenographer scale Rs.1200-2040 (RP) are absolutely justified and essential which ~~cannot~~ not be avoided on the grounds of BAN put up by the Railway Board."

There is however an averment in the reply statement by the respondents that the work-load of the applicant was not much as the officers to whom he was attached were field officers and did not have much office work. This is not reflected in the D.R.M.'s letter. Besides from the relevant guidelines senior scale officers and above is entitled to an independent Stenographer. It would thus be

clear that the applicant had performed additional duties over and above his normal duties as he had to work under two officers, one of whom was in the senior scale and the other officer was in the junior administrative grade. Thus it is clear that the applicant had to shoulder a specific additional to his work and responsibility which would justify grant of some special pay or additional allowance. The applicant claims that he had been working under two officers from 1983. In the normal course, he would be entitled to financial benefits only from August 1989 that is one year from the date of filing the O.A. The O.M. dated 16th October 1989 revertsto the scale of Rs.1200-2040 from the scale of 1400-2300. In other words, he was in the higher scale of 1400-2300 till October 1989. The reply statement\$ says that the applicant had been promoted on ad hoc basis to the scale of Rs.1400-2300 with effect from 6.12.90.

7. In the circumstances, we hold that while the applicant is not entitled to the higher scale of Rs.1400-2300, he deserves some remuneration for the extra work he has performed.

We direct the respondents to grant him allowance or special pay at 10% of his basic pay

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for the period from October 1989 when he was reverted from the scale of 1400-2300 till 6.12.90 when he was promoted to the same grade on ad hoc basis. This should be paid to the applicant within two months from the date of receipt of a copy of this order. The O.A. is finally disposed of with the above direction with no orders as to costs.

A. S. Sanghavi
(A. S. Sanghavi)
Member (J)

V. Ramakrishnan
29/12/90
(V. Ramakrishnan)
Vice Chairman

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