

(19)

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/170/91

Date of Decision: 24.04.2000

Shri B. N. Shukla & Ors. : Petitioner (s)

Mr. K. K. Shah : Advocate for the petitioner(s)

Versus

Union of India & Ors. : Respondent(s)

Mr. N. S. Shevde : Advocate for the Respondent(s)

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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 Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? ↗

1. B. N. Shukla
2. M. P. Doctor
3. C. L. Khatri
4. C. D. Vyas
5. G. M. Kadia
6. B. V. Bhatt
7. P. Y. Deshpande
8. J. O. Shastri
9. U. H. Malik

All are working as Accounts Assistants,
Office of Accounts Officer,
Workshop Accounts Office,
Western Railway, Dahod.

= Applicants =

Advocate : Mr. K. K. Shah

Versus

1. Union of India,
Notice to be served through,
The General Manager,
W. Rly., Church gate,
Mumbai : 400 020.
2. Divisional Railway Manager,
W. Rly., Baroda Division,
Pratapnagar, Baroda.
3. Assistant Accounts Officer,
Workshop Accounts Office,
W. Rly., Dahod.

= Respondents =

Advocate : Mr. N. S. Shevde

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**ORAL ORDER
O.A 170 OF 1991**

Date : 24.04.2000

Per Hon'ble Shri. V. Ramakrishnan : Vice Chariman.

We have heard Mr. K.K. Shah for the applicants earlier and Mr. Shevde for the respondents. The applicants in this O.A have approached the Tribunal seeking the following reliefs:-

"(A) This Hon'ble Tribunal may be pleased to hold that the applicants are entitled for the stepping up of pay vis-à-vis their junior namely T.A. Parmar and N. D. Kachhia and hold that the para 3 of the Railway Board Circular dated 20.07.1989 is ultravires, unconstitutional and grant all the consequential benefits to the applicant from the date their juniors are getting by holding that the action of the respondents is illegal, invalid in the eyes of law."

2. The case of the applicants is that the Railways had created certain post at the level of UDC / Accounts Assistants where a special pay of Rs.35/- per month was attached on the ground that they had to perform complex nature of duties. Subsequently, it was also decided that on their promotion to the next higher grade, special pay shall be treated as part of their pay for fixation of pay in the higher grade. The Railways also had issued a circular dated 20.07.89. Para 3 of the circular clarifies as under :

3. As a result of application of these orders, there may arise cases where juniors performing complex nature of functions in the pre-revised set up and consequently getting special pay of Rs.35/- may get their pay fixed in the revised scale at a higher stage than the seniors who were not performing the complex nature of functions and were, therefore, not getting the special pay. Such cases, if any, cannot be treated anomalous because juniors will be drawing higher pay than seniors by virtue of having performed duties of complex nature and drawn special pay. Thus, there will be no question of stepping up of pay of seniors on this account."

3. The applicants claim that even though they were seniors at the level of UDC, they were not assessed for the posts involving complex duties and they were not granted special pay and this has resulted in a situation that some juniors namely T. A. Parmar and N. D. Kachhia had drawn higher pay on promotion to the next higher grade and that their pay should be stepped up on par with Parmar and Kachhia.

4. Mr. K. K. Shah has drawn attention to the decision of the Supreme Court in the case of UOI Vs. Jagdish and Ors. 1997 3 SCC 176 and submits that the present case is squarely covered by the decision of the Supreme Court in that case. We find in Jagdish's case that the Supreme Court raised the following two issues :-

(1) Whether the respondents who had not been posted against the identified posts carrying a special pay of Rs.35/- per month can even claim fixation of their pay with Rs.35/- per month in the cadre of Senior Clerk even on notional basis.

(2) Whether the respondents can claim for stepping up of their pay in the promoted cadre of Head Clerks when their juniors who were later promoted were fixed up at a higher slab in the cadre of Head Clerks taking into account the special pay which they were drawing in the lower category of Senior Clerks.

It held that the special pay is an additional pay attached to the post and only the incumbent can claim the same. It therefore, answered in the negative, the claim of the Railway official that special pay of Rs.35/- per month should be given to them. So far as the second question was concerned, the Supreme Court had held that the principle of stepping up should be made applicable to the Railway servants with effect from the date their juniors got promotion ~~from~~ ⁱⁿ the cadre of Head Clerk. Mr. Shah submits that in view of this the applicants have a right for getting their pay stepped up.

5. Mr. Shevde for the respondents does not dispute the fact that the applicants were holding the post of Accounts Assistant which is equivalent to the post of Senior Clerk / UDC. However, he states that while Parmar and Kachhia were juniors to the applicants initially their pay was fixed in the higher stage at Rs.850/-. However, they found that there was a mistake in their pay fixation and their pay was fixed at Rs.1900/- in the revised scale of Rs.1400-2600 as on 01.01.87 in the revised pay of scale which is not higher then the pay of

the applicants. Mr. Shevde contends that there is no question of any junior drawing more pay on their promotion to the next higher grade and as such the question of stepping up does not arise. We record the submission of Mr. Shevde.

6. So far as the issue of stepping up of pay is concerned, we hold that while the applicants can seek parity with their juniors if the pay of the latter including special pay of Rs.35/- drawn in the lower scale was fixed at a higher level to the grade of Rs.1400-2600/- in the light of the Supreme Court Judgment in Jagdish's case referred to Supra, we find that in practice it will not make any difference to the applicants, as the pay of the juniors to the applicant namely Shri. Parmar and Kachhia in the higher post has not been fixed at a stage higher than that of the applicants.

7. The O.A is finally disposed of with no orders as to costs.


(A. S. Sanghavi)
Member (J)


(V. Ramakrishnan)
Vice Chairman

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