

Central Administrative Tribunal
Cuttack Bench, Cuttack

Original Application No. 272 of 1991.

Date of decision: January 20, 1993.

D.K.Patnaik and others Petitioners
Versus
Union of India and others Opp. Parties.

For the Petitioners M/s Ganeswar Rath,
P.K.Mohapatra,
A.K.Patnaik,
Advocates.

For the Opp. Parties Mr. L.Mohapatra, St. Counsel
(Railway).

CORAM:

THE HONOURABLE MR. K.P.ACHARYA, VICE CHAIRMAN
AND
THE HONOURABLE MR. S.R.ADIGE, MEMBER (ADMINISTRATIVE)

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? *No* *Y*
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, V.C.

The Railway Recruitment Board vide its order dated 9-5-1987 invited applications for the post of Traffic Apprentice having scale of pay of Rs.1400-2600/- . The prescribed period of training meant for the Traffic Apprentice was for three years. After completion of the training, such Traffic Apprentices are given promotion to the post of Asst. Station Masters, Yard Masters, etc. Needless to be stated that those apprentices who are appointed as Yard Masters or Assistant Station Masters etc. carry with them the same scale of pay, increments to which they are entitled in course of time. On 15.5.1987 the Railway Board issued another circular and this circular was communicated to all the concerned authorities on 11.2.1988 which forms subject matter of Annexure 2. Therein it was stated that the scale of pay of Traffic Apprentices has been revised to Rs. 1400-2660/- and the training period was reduced to two years. From Annexure 3, it would be found that the Bombay zone accepted the direction given by the Railway Board and it was implemented. Since this direction has not been implemented by the S.E.Railway, this application has been filed by 15 petitioners with a prayer to give a direction to the Opposite Parties entitling the petitioners to a scale of pay of Rs. 1600-2660/-.

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3. In their counter the Opposite Parties maintained that since the circular was issued by the Railway Board on 25.5.1987, the same not having ~~xxxxxxxxxxxxxx~~ any retrospective effect, those who have been appointed as Traffic Apprentices after 15.5.1987 are entitled to a pay scale of Rs.1600-2660/- and the petitioners being appointed prior to 15.5.1987, they are entitled to Rs.1400-2300/- and not Rs.1600-2660/-.

4. We have heard Mr. Ganeswar Rath learned counsel for the petitioners and Mr. L. Mohapatra, learned Standing Counsel (Railway) for the Opposite Parties. Mr. Rath learned counsel appearing for the petitioners emphatically relied upon a judgment of the Central Administrative Tribunal, Madras Bench forming subject matter of Original Application Nos. 322 of 1988 and 488 of 1987. The very same issue was subject matter of dispute before the Madras Bench and vide its judgment dated 4th December, 1989, the Madras Bench came to the following conclusion:

"We accordingly direct that the benefits, of revision of pay and fitment of absorption vide Railway Board's letter No. E(NG) II/84/RC 3/15 (AIRD) dated 15.5.87 should be given to the applicants in both the OAs from 15.5.1987 with consequent monetary benefits. This shall be done without putting them through any final retention test. We also direct that the fitment should be done and arrears disbursed within a period of 90 days from the date of receipt of this order."

From 1st paragraph of the judgment it is found that the petitioners in both the cases, were appointed as Traffic Apprentices prior to 15.5.1987 and in both

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the Original Applications, the petitioners had prayed before the Madras Bench that the Revised Pay scale should be made applicable to the Petitioners before the Madras Bench and accordingly order was passed by the Madras Bench, quoted above. Against this Judgment, a Review application was filed before the Madras Bench by the Union of India and the Chairman of the Railway Board. It formed subject matter of Review Application No. 31 of 1990. This was disposed of on 12th April, 1990. The Review Application was dismissed. The matter was carried in appeal to the Hon'ble Supreme Court which formed subject matter of Special Leave to Appeal (civil) No. 75552 of 1990 with S.L.P. (Civil) No. 7553 of 1990. These Special Leave petitions arose out of the judgment passed in Original Application No. 488 of 1987 and 323 of 1988 of the Madras Bench. Their Lordships vide Their order dated 23rd July, 1990 observed as follows:

"The Special Leave Petitions are dismissed".

Dismissal of the Special Leave Petition may not be strictly construed as declaration of Law under Article 141 of the Constitution but the fact remains that the view of the Madras Bench to give benefit to those Traffic Apprentices appointed prior to 15.5.1987 and thereafter should be ~~warranted~~ the same i.e. Rs. 1600-2660/- has been upheld. Therefore, being bound by the orders passed by the Hon'ble Supreme Court and with due respect to the judgments of the Madras Bench,

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we would follow the same view and we would direct that all the petitioners are entitled to the pay scale of Rs.1600-2600/-without being insisted upon to appear in any test and it is further directed that the arrears be calculated and paid to each of them within 90 days from the date of receipt of a copy of the judgment and hereafter they are also entitled to the same scale of pay.

4. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

Anfolge 20.1.93
MEMBER (ADMINISTRATIVE)

K. G. 20.1.93
20.1.93
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/V. Mohanty/
20.1.1993.

