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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.607 of 2010

Cuttack this the 27th day of September, 2012

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER
AND
THE HON'BLE MR.A.K.PATNAIK, MEMBER

- ...
1. Pradyumna Kumar Kar, aged about 46 years, S/o. Dinabandhu Kar
 2. Bibhudendu Nayak, aged about 44 year, S/o. late Atratrana Nayak
 3. A.K.Mishra, aged about 46 years, S/o. late Nrusingha Charan Mishra
 4. Rabindranath Sahu, aged about 57 years, S/o. late Sahadev Sahu
 5. R.Ramchandra Rao, aged about 46 years, S/o. R.P.Suramanyam
 6. Gurugobinda Bhanjdeo, aged about 44 years, S/o. Sanatana Bhanjdeo
 7. P.C.Samal, aged about 49 years, S/o. Rajkishore Samal

All the applicants are continuing as Accounts Assistant under the Khurda Road Division of East Coast Railways, Khurda Road, Jatni, Dist-Khurda

...Applicants

By the Advocates:M/s.J.Sengupta, A.K.Mishra & G.Sinha

-Versus-

1. Union of India represented through General Manager, East Coast Railways, Rail Kunj, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Principal FA & CAO, East Coast railways, Rail Kunj, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
3. Senior Divisional Financial Manager, East Coast Railways, Khurda Road Division, At/PO-Jatni, Dist-Khurda.
4. Chief Personnel Officer, East Coast Railways, East Coast Railway Sadan, Chandrasekharpur, Bhubaneswar.

.....Respondent
s

By the Advocates:Mr.T.Rath, SC

.....
O R D E R

C.R.MOHAPATRA, MEMBER (ADMN.):

We have heard Shri J.Sengupta, learned counsel for the applicants and Shri T.Rath, learned Standing Counsel appearing on behalf

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of the Respondent-Railways and perused the materials on record. We have also gone through the rejoinder and reply to rejoinder filed by the respective parties.

2. Applicants, seven in numbers, with a common cause of action, have approached this Tribunal jointly in the instant Original Application. Facts of the matter, in brief, are that all the Applicants were initially appointed as Junior Stenographer, Accounts Assistant, and Accounts Clerk in between 1987 – 1990 under the Respondent-Railways. Thereafter, they were all promoted to the rank of Accounts Assistant in between 1993 – 1994 and continuing as such. S/Shri K.N.Panda, N.Baliarsingh & P.K.Dalai, who were initially appointed as Junior Accounts Assistant (in short JAA) and promoted to Accounts Assistant grade in Hubuli Division, applied to come on inter railway transfer accepting the bottom principle in lower grade i.e. Junior Accounts Assistant. On acceptance of their prayer, all of them were relieved from Hubuli Division and joined in the ECoRailway on 14.02.1996 in JAA grade and were placed at the bottom of the existing JAAs. But the pay which they were getting earlier was protected by treating the same as personal pay. Subsequently, all of them were promoted to Accounts Assistant Grade and their pay in the promotional grade was fixed taking into consideration the last pay drawn by them in the feeder cadre/Grade i.e. JAA. For the above reason the pay so fixed in the grade of AA of the applicants were lesser than the pay of the above officials (S/Shri

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K.N.Panda & Others). Hence by making representation the applicants prayed for stepping up of their pay at par with the above officials (S/Shri K.N.Panda & Others). The said prayer of the applicants having been rejected they have approached this Tribunal with prayer to quash the letter of the Respondent no.4 dated 28.01.10 (Annexure-A/7) in rejecting the representation of the applicants as well as to quash the order of the Respondent no.3 dated 08.07.09 in cancelling the step up of pay already granted to the applicants; to hold that the applicants are entitled to get their pay stepped up at par with Sri K.N.Panda and to direct the Respondents to grant all other service and financial benefits retrospectively.

3. Respondents' stand (both in the letter of rejection as well as counter) is that Rule does not permit, in a given situation, to step up the pay of the applicants especially when the pay of Shri K.N.Panda and others on their promotion to Accounts Assistant was fixed taking into consideration the pay drawn by them in the feeder grade. Admittedly, Shri K.N.Panda and others were getting higher pay in the JAO grade (though placed below the applicants in the seniority list) by allowing them pay protection as per Rules. Rule provides that if despite the application of the proviso to an exception below rule 1313(FR 22) the juniors' pay is less than that of the senior and on promotion formers pay happens to be greater than the pay of the latter by virtue of provisions of rule 1313(FR 22C), stepping up will have to be done with reference to the

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actual pay drawn by the junior in the higher post. In the instant case junior was drawing more pay in the cadre of JAA owing to the pay protection given to him before his promotion to AA. Hence the prayer of the applicants was rightly rejected which needs no interference.

4. It is an admitted position that Shri K.N.Panda had been promoted to Accounts Assistant on 25.1.1993 in his parent Division when applicants were not at all promoted to that grade in Khurda Road Division. However, the fact remains, when Shri Panda came on request transfer on 14.02.1996 to Khurda Road Division by accepting bottom seniority vis-a-vis all the confirmed and officiating staff in the grade of JAAs he had been granted Pay Protection in the higher grade of AA, his pay being at Rs.5675/-(Rs.5625+50 PP), applicants being in the higher grade of AA were also in receipt of Rs.5675/- as that of Shri Panda. Therefore, the disparity in pay which arose was due to pay protection given to Shri Panda in the higher grade, i.e. Accounts Assistant.

5. In the instant case the alleged junior Shri K.N.Panda having not been promoted along with the applicants to the grade of Accounts Assistant, it cannot be said that the pay disparity arose out of fixation of pay of both junior and senior in the promotional grade thereby making the seniors(applicants) entitled to get their pay stepped up at par with Shri Panda. It is an admitted position that whereas applicants were promoted to the grade of AA in between 1993 – 1994 Shri Panda was so promoted during 1999. It is also an admitted position that while Shri Panda, was

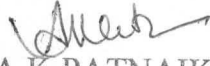
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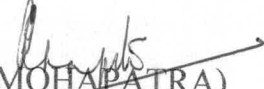
in receipt of pay at Rs.5675/- in the lower grade, applicants being in the higher grade, i.e. AA were in receipt of pay at Rs.5675/-. Therefore, it was due to equal basic pay drawn by Shri Panda in the lower grade vis-à-vis the applicant in the higher grade, on being promoted to A.A., Shri Panda's pay was consequentially fixed at a higher stage than that of the applicants. This in our considered view, does not attract any provision of rules granting stepping up of pay to seniors at par with their junior. Besides the above, if the plea of the applicants for stepping up pay is acceptable then a question would arise as to whether applicants being promoted to AA could be allowed to draw the same pay, i.e., Rs.5675/- which is on par with the grade of Shri Panda. The Authority, as per Rules, is competent to sanction stepping up of the pay of the senior provided that both the senior and junior employees belong to the same cadre and the posts to which they have been promoted or appointed should be identical and in the same scale. The junior and the senior should have held identical scales in the lower post and should have held identical scales in the higher post. The anomaly should directly arise from application of the relevant Rule/order. When the so called juniors of the Applicants were drawing higher pay due to their promotion in their parent department and their placement below the applicants in the new Railway was due to their inter railway transfer, we do not find any discrimination in the matter of fixation of pay. As such, the claim for stepping up is misconceived. It is not in dispute that the so called juniors

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were working in higher post and they were given regular promotion and are drawing more pay than the applicants. The applicants are, therefore, not entitled for stepping up of their pay at par with their juniors. It is also seen that the juniors of the applicants were drawing more pay due to pay protection given to them as per Rules. For the reasons discussed above, we hold that the applicants have not been able to make out a case for any of the reliefs sought in the instant OA. Thus, this OA stands dismissed being devoid of any merit. No costs.


(A.K.PATNAIK)
Member(Judicial)


(C.R.MOHAPATRA)
Member (Admn.)