

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 1269/1996

Date of order: 8.02.2002.

Present: Hon'ble Mr. B.P. Singh, Administrative Member.  
Hon'ble Mr. Kuldip Singh, Judicial Member.

D.K. Sen

- v e r s u s -

1. Union of India through the General Manager,  
S.E. Railway, Garden Reach, Calcutta-43.
2. The Financial Adviser & Chief Accounts Officer,  
S.E. Railway, Garden Reach, Calcutta-43.

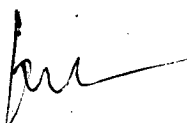
For the applicant : Mr. P.B. Mishra, counsel.

For the respondents : Mr. K. Chakraborty, counsel.

O R D E R

The applicant in this case has challenged the service certificate dated 5.11.1992 and another Memo dated 13.11.92 issued from the Office of FA & CAO, S.E. Railway, Garden Reach, Calcutta whereby the pay of the applicant has been reduced to Rs. 2360/- from Rs. 2420/- after retirement and pension has been sanctioned accordingly.

2. The applicants submits that he was initially appointed as a Clerk Grade II in the Accounts Department in the S.E. Railway on 9.11.56. Later he retired as Accounts Assistant on 31.10.92. On passing the Appendix II-A Exam. he was promoted to the post of Accounts Assistant in 1980 in the scale of Rs.425-700/- and his pay was fixed under FR-22-C. W.e.f. 5.5.79 the grade of CC-I was sanctioned special pay of Rs.35/- limited to 10% of CG-I grade strength on being found suitable to handle cases of complicated nature. The case of the applicant is that this special pay has to be taken into account for fixation of pay

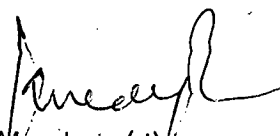



on promotion/appointment under FR 22-C as it was allowed subsequently vide Annexure-A/1. But later on this amount has been withdrawn. The applicant alleges that denial of this on the part of the respondents is illegal as it is against the judgment of the Hon'ble Apex Court. Thus the applicant has been discriminated in the matter of performing the duty of higher responsibility as SG CG-I. So, he is entitled to special pay of Rs.35/- which was to be counted for fixation of pay under FR 22-C.

3. The O.A. is opposed by the respondents. We have heard Id. counsel for the parties and have gone through the records.

4. The Id. counsel for the applicant had referred to a judgment reported in 1997 SCC (L&S) 1151. On the basis of this judgment as also the Judgement in the Railway's case in O.A. Nos. 1026/96, 1027/96, 1028/96, 297/97 and 298/97 the benefit of fixation pay to the applicants was given who were similarly placed and the Railway Board's circular was also held to be illegal which denied the benefit of fixation of pay granted to the applicants. Thus we find the case of the applicant fully covered by the judgment of the Hon'ble Supreme Court as well as the judgments given by the Tribunal. Hence we are of the considered view that the applicant is entitled to get pay fixation taking the special pay of Rs.35/- into account. Besides, his pension should also be revised on the basis of the pay fixation.

5. Accordingly we allow the O.A. and direct the respondents that they should revise the pay of the applicant under FR 22-C in the scale of Rs.425-700/- w.e.f. 1.4.80 taking the special pay of Rs.35/- into account as given to other similarly placed persons and the amount illegally recovered from his DCRG amount should also be refunded to the applicant alongwith 12% interest. The pension of the applicant should also be revised on the basis of the pay fixation. All the exercises should be completed within a period of three months from the date of communication of this order. There will be no order as to cost.

  
Member (J)

  
Member(A)