

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 193 of 96

Present : Hon'ble Mr. Justice S.N. Mallick, Vice Chairman.

Hon'ble Mr. B.P. Singh, Administrative Member.

1. Gora Chand Gharami, S/o Late Haripada Gharami aged about 42 years, Gestetner Operator, CSTE's Office, S.E. Rly., Garden Reach, Calcutta-43, at present residing at C/o Gour Adhikari, S.E. Rly. Colony, Garden Reach, Calcutta-43;
2. Mahakant Mondal, S/o Late Basudeb Mondal, aged about 52 years, Gestetner Operator, CSTE(C)'s Office, S.E. Rly., GRC, Calcutta-43, at present residing at S.E. Rly. Colony, C/o G. Adhikari, Garden Reach, Calcutta-43, PS:SDPP.

...Applicants.

- v e r s u s -

1. Union of India, service through General Manager, S.E. Rly., GRC, Calcutta-43.
2. General Manager, S.E. Rly., GRC, Calcutta-43.
3. Chief Personnel Officer, S.E. Rly. GRC, Calcutta-43.
4. Chief Sig. & Telecom. Engineer, S.E. Rly., Calcutta-43.
5. Chief Sig. & Telecom. Engineer (Con), S.E. Rly., Calcutta-43.

For the applicants : Mr. B.C. Sinha, counsel.
Mr. P.K. Ghosh, counsel.

For the respondents : Mr. B. Ray, counsel.

Heard on 18.11.98

Order on 18.11.98

O R D E R

✱ S.N. Mallick, VC

In this O.A. the applicants have prayed for a direction upon the respondents to implement the Railway Board's order circulated in Estt. Srl. No.283/75 which is dated 19.9.75 as per Annexure-A/3 by placing them in the pay scale of Rs.950-1500 (RSP) and extend the benefit of said scale of pay to the applicants with effect from the date of their promotion with all consequential benefits of arrears of pay and allowances etc.

2. It is submitted by Mr. Sinha, Id. counsel for the applicants that during the pendency of this application, 5th Pay Commission recommendations have been accepted and they have been given effect

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to any other departments. So his prayer is that the applicants are also entitled to get further revision of pay in the appropriate scale as per recommendations of the 5th Pay Commission as accepted by the Railway Authority. The brief facts of the case are as follows.

The applicant No.1 while working as a peon under the respondent authorities was promoted to officiate as Gestetner Operator in the scale of Rs.210-270/- w.e.f. 3.9.81 as per order dated 3.9.81 vide Annexure-A/3. Similarly, the applicant No.2 while working as a peon under the respondent authorities was also promoted to officiate as a Gestetner Operator in the scale of Rs.800-1150/- w.e.f. 25.10.88 as per order dated 25.10.88 (vide Annexure-A/1). Both the applicants filed representation before the respondent No.3 for fixation of their pay in regular scale of pay as attached to the said post and also to place them in the scale of Rs.950-1500/- as revised under the recommendations of the 4th Pay Commission. The said representation is dated 10.5.89 as per Annexure-A/2. The applicants have annexed the Railway Board's order dated 19.9.75 (vide Annexure-A/3) which gives the scale of pay of Gestetner Operator. It is specified there that the said scale of pay is applicable to the post of Gestetner Operators obtaining in all Departments. The initial scale of pay for such post is shown as Rs.110-180. The revised scale of such pay as contained in the aforesaid order is Rs.260-400/-. It has been contended by Mr. Sinha, Id. counsel for the applicants that the scale of pay as made available to the applicant No.1 as per order dated 3.9.81 is fictitious one which is in contravention with the Railway Board's order as referred to above. There is no such scale of Rs.210-270/- in which the applicant No.1 could be appointed as Gestetner Operator. The same is with the appointment of the applicant No.2 in the pay scale of Rs.800-1150/-. It is also contended by Mr. Sinha that such anomaly was taken note of by the Chief Personnel Officer in his order dated 14.3.89 addressed to all D.R.Ms. The contents of the said letter are very much relevant for the present purpose which may

be quoted below:-

" Sub: Disparity in the pay scale of Gestetner Operators.

The S.E.R.M.C. has pointed out that in some units, Gestetner Operator has been placed in lower scale than that of in scale Rs.110-180 (AS/260-400 (RS) vide Estt. Srl. No.283/75 and subsequently in scale of Rs.950-1500 (RPS). This is possibly on the ground that the post of Gestetner Operators were created initially in Grade 210-270 (AS) or scale of Rs.225-308(AS) without referring to the correct scale of Rs.110-180 (AS) where the posts would have been created.

In terms of Estt.Srl.No.283/75, post of Gestetner Operator in all Deptts. should be in scale of Rs.110-180(AS)/260-400(RS)/950-1500 (RPS). Since it is not possible to upgrade the posts created in the lower scale straightway without maching surrender, you are requested to initiate action to upgrade all the lower grade post to bring at par with scale Rs.110-180(AS) 260-400(RS)/950-1500 (RPS)."

3. Mr. Sinha, Id. counsel has further drawn our attention to a note of the FA & CAO(C)/GRC dated 3.8.95 given to the C.S.T.E.(Con), S.E. Railway/GRC which runs as follows:-

" This office agreed for implementation of Estt.Srl.No.283/75 so to say operation of a post of Gestetner operator (already concurred) in scale of Rs.950-1500/- provided fund provision under your control does not exceed.

In this connection you are requested to review all the scale of pay in your department to ensure that pay and allowances are not drawn in such fictitious scale of pay."

4. On the above material on record there cannot be any iota of doubt to say that the applicants' pay were ^{from} in the post of Gestetner Operator in fictitious scale of pay and in violation of the Railway Board's order dated 19.9.75.

5. The stand taken by the respondents in paragraph 7 of the reply is as follows:-

" With regard to paragraph 4.3 of the above application it is stated that the applicants' contention regarding allotment/ placement of their scale Rs.950-1500/- while working as Gestetner Operator is not at all tenable since at no point of time they were granted the scale of Rs.110-180/- of Rs.260-400/- (RP) so as to enable them to be allotted the corresponding scale of Rs.950-1500/- as claimed by the applicants. Therefore, the Railway respondents are justified in giving them the correct scale to which they are actually entitled."

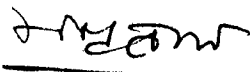
6. It is also stated in paragraph 9 of the reply that due to objection given by the Finance Department of the Railways the benefit of placement in the scale of pay as directed by the Railway Board could not be extended to the applicants since the creation/upgradation of the posts in higher scale was not possible due to embargo imposed by the Railway

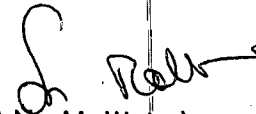
Board. It is difficult to appreciate the reasons or the law behind such contention. The aforesaid annexures to the O.A. as filed by the applicants show without any doubt that they have been deprived of the benefit of the appropriate scale of pay including the revised scale of pay from time to time in violation of the Railway Board's order. Under such circumstances, we do not find any substance in the contention of the respondents as discussed above. The application must succeed.

7. The application is, therefore, allowed. We direct the respondents to implement the Railway Board's order dated 19.9.75, and to place the applicants in appropriate scale of pay as envisaged in the above Railway Board's order giving the benefit of revised scale of pay viz. 4th Pay Commission and 5th Pay Commission with all ancillary benefits within three months from the date of communication of this order.

from the date of their initial appointment as General superintending

8. No order is passed as to costs.


(B.P. Singh)
M e m b e r (A)


(S.N. Mallick)
Vice Chairman

a.k.c.
