

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. NO.743 OF 1997

CALCUTTA, THIS THE 14TH DAY OF JUNE, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER
HON'BLE SHRI J.K. KAUSHIK, JUDICIAL MEMBER

1. Sri Utpal Kanti Roy,
residing at Vill Unai P.O. Kalupur,
P.S. Bongaon, 24 Pgs. (North),
Pin : 743235 working as J.A.A.
(T/Administration), South Eastern Railway,
Garden Reach. Now he is working in the
Garden Reach Headquarter Calcutta.
2. Mrs. Chandana Sarkar (Bhowmick)
residing at 4, Aligal Mohal Sadar
Bazar, P.O. Barackpore, 24 Pgs. (North)
working as Accounts Clerk Gr.I,
under the Financial Adviser & Chief
Accounts Officer, South Eastern Railway,
Garden Reach, Calcutta - 43.
3. Sri Krishnapada Das,
residing at Vill & P.O. Champa Danga, P.S.
Tarakeshwar, Dist: Hooghly working as Accounts
Clerk Gr.1 under the Senior Divisional Accounts
Officer, South Eastern Railway, Nagpur.
4. Sri Susanta Kumar Mondal,
Son of Sri Krishnapada Mondal
residing at Vill Mejdia, P.S. Daluabari, Dist:
Nadia working as Accounts Clerk Gr.1
under the Senior Divisional Accounts Officer,
South Eastern Railway, Nagpur.
5. Sri Prasanta Gangopadhyay,
Son of Sri Paritosh Gangopadhyay
residing at Vill & PO Barabahera,
Dist : Hooghly, Pin 712246 working as
Accounts Clerk Gr. 1 under the
Divisional Accounts Officer's Office
South Eastern Railway, Sambalpur.
6. Sri Nirendra Nath Biswas,
Son of Sri harendra Nath Biswas
residing at Vill Andulpota,
P.O. Gholia, Dist Nadia working
as Accounts Clerk Gr.1 under Senior Divisional
Accounts Officer's Office
(Administrative Section)
Chakradharpur, South Eastern Railway.
7. Sri Rabindranath Karmakar,
Son of Late narendra Nath Karmakar
residing at P.O. purbanoapara,
Vill Aramghata, Dist Nadia,
Pin 741501. working as Accounts Clerk
Gr.1 under senior Divisional Accounts Officer's
Office (Eng. Sec.) South Eastern Railway,
Bilapur (M.P.).

Signature

8. Sri Amalendu Mondal,
Son of Late Hajarilal Mondal
residing at Vill & P.O. Kalupur,
P.S. Bongaon Dist 24 Pgs (N),
Pin 743236 (W.B.) working as Accounts Clerk
Gr.1 under Dy. F.A. & C.A.O. (W)
South Eastern Railway, Kharagpur.
9. Sri Swapan Kumar Mondal,
residing at Vill Sreerampur,
P.O. Dakshin Gobindapur, Dist: 24 Pgs. Pin 743353,
working as Accounts Clerk Gr.1 under Senior Divisional
Accounts Officer's Office, South Eastern Railway,
Kharagpur, Dist Midnapore.
10. Sri Jagadish Chandra Hazra,
Son of Late Provash Chandra
Hazra residing at Vill & PO Achipur, Dist 24 Pgs (South),
Pin 743319 working as Accounts Clerk, Gr.1 under Dy.
Chief Accounts Officer (T.A.), South Eastern Railway,
Garden Reach, Calcutta.

.....Applicants

(By Advocate : Shri P.C. Das)

Versus

1. Union of India, service through the General Manager,
Eastern Railway, 17 N Fairlee Place, Calcutta-1.
2. The General Manager,
South Eastern Railway, Garden Reach, Calcutta.
3. The Financial Adviser & Chief Accounts Officer
(Admn.), South Eastern Railway,
Garden Reach,
Calcutta -43.
4. Senior Divisional Accounts Officer
South Eastern Railway,
Bilaspur (M.P.).
5. Divisional Accounts Officer,
South Eastern Railway, Nagpur,
Maharashtra.
6. Divisional Accounts Officer,
South Eastern Railway, Sambalpur,
Orissa.
7. Chairman, Railway Recruitment Board, Calcutta
M.M. Building, 16, S. Road, Calcutta-1.

.....Respondents

(By Advocate : Shri Ray Choudhuri with Shri S.R. Kar)

ORDER (ORAL)

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER :

This Original Application has been filed by Sri Uptal
Kanti Roy and nine others claiming the benefit of the order of
this Tribunal in OA No.830/1991 in the case of Chitralekha

Chitralekha

Chakraborty Vs. Union of India and Ors. decided on 3.1.1996. The applicants grievance is that though they were selection in pursuance to the advertisement issued by the Railway Recruitment Board in the year 1985 for the post of Accounts Clerk Grade-I, they were actually given appointment letters in 1994 and 1995. The applicants stated that the delay was on account of the administration part. Therefore, they should not only be given the seniority but also the benefit of pay etc. from the date of joining of their juniors.

2. The applicants have stated that this Tribunal in several cases has granted the benefit of seniority with reference to the date of joining of the juniors. Attention has been invited to the order passed in OA NO.105/1994 in the case of Utpal Kanti Roy & Ors. Vs Union of India and Ors. decided on 16.5.1994 and some others cases. The learned counsel of the applicants stated that the Hon'ble Calcutta High Court has dismissed the Writ Petition No.W.P.C.T. 192 of 2003 filed by the respondents against the order passed by this Bench of the Tribunal in OA NO.173/1997 in the case of Sukamal Dey and Ors. Vs. Union of India and Ors. on 15.2.2002 The learned counsel of the applicants further referred to the decision of this Bench in the case of Lakshan Chandra Mondal Vs. Union of India and Ors. in OA No.1356 of 1997 decided on 10.6.2004 wherein this Tribunal has allowed the claim of the applicants therein in respect of claim of seniority with reference to the date of joining of junior persons.

3. The learned counsel of the respondents places reliance on the reply filed. It has been stated that the claim of the applicants for pay etc. from the date of joining of the junior persons cannot be allowed on a principle of 'no work no pay'. However, he has fairly stated that this Tribunal has taken

Chakraborty

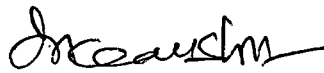
a view that similarly placed applicants are entitled to the benefit of seniority on notional basis with reference to their juniors. However, the learned counsel further urged that the decisions of this Tribunal in those cases are still sub-judice inasmuch as they are pending for adjudication before the Hon'ble Supreme Court. The learned counsel also places reliance on the order of this Tribunal in the case of Kamlesh Singh & Ors. Vs. Union of India and Ors. in OA No.837 of 1989 decided on 5.3.1993 wherein this Tribunal has ordered grant of seniority from the date of joining. Reliance was also placed on the orders of this Tribunal dated 2.5.2003 in OA No.1240 of 1997 in the case of Sharaft Hussain and Ors. Vs. Union of India and Ors. wherein this Tribunal had directed to grant seniority from the date of joining but had also granted liberty to make representation and then to approach the Tribunal, if they were still aggrieved.

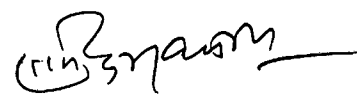
4. We have heard the learned counsel of both the parties and have perused the material available on record.

5. This Tribunal in the case of Lakshan Chandra Mondal and Ors. Vs. Union of India (supra) vide order dated 10.6.2004 had considered the similar claim of the applicants and had also considered the objections of the respondents. It was held in that case that the applicants were willing to work if appointed immediately after they were selected. However, the delay in joining has occurred ^{not a} on account of inability of the applicants to join but on account of delay primarily on account of errors and omissions of the respondents. In the circumstances, the applicants in that case were directed to be given notional seniority without benefit of any pay and allowances from the date of joining of their juniors. This decision was based on the earlier decision of this Tribunal in the case of Sukamal Day and Ors. (supra) which was affirmed by the Hon'ble High Court of

Prin Singh

Calcutta. In the circumstances, since the facts are para materia similar to the facts in the case of Lakshan Chandra Mondal and Ors. Vs. Union of India and Ors. (supra), we grant similar relief subject to the final outcome of the decision pending in the Hon'ble Supreme Court on the subject. We order that the applicants be given notional seniority and other consequential benefits from the date of joining of the juniors but without benefit of pay and allowances on the principle of 'no work no pay'. This order of the Tribunal be complied with within three months from the date of receipt of a certified copy by the respondents. No costs.


(J.K. Kaushik)
Judicial Member


(R.K. Upadhyaya)
Administrative Member

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