

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No.1458 of 1997

Present: Hon'ble Dr. B.C. Sarma, Administrative Member

Hon'ble Mr. D. Purakayastha, Judicial Member

PRANAB KUMAR CHAKRABORTY & 65 ORS.

VS

UNION OF INDIA & ORS.

For the Applicants: Mr. S. Bose, counsel

Mr. B. Mukherjee, counsel.

For the Respondents : Mr. M.K. Bandopadhyay, counsel

Heard on 12.1.1998

: :

Date of order: 12.1.1998

O R D E R

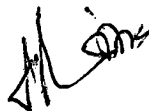
B.C. Sarma, AM

This application has been heard for admission. As per our order dated 16.12.97, Mr. Bandopadhyay, learned counsel appears for the respondents and he makes his submission clarifying on what basis the impugned order has been passed in this case. According to Mr. Bandopadhyay on the basis of the acceptance order passed by the Government on the basis of the Fifth Pay Commission, the pay scale and the pay of the instant applicants have been fixed. In this connection he invites our attention to the first schedule at p.15 of Nabhi's Fifth Pay Commission acceptance orders for Railway Employees, 1997. Mr. Bandopadhyay, therefore, submits that there is no arbitrary^{ness} in the order in the fixation of the pay of the applicants.

2. Mr. S. Bose, learned^{Sr.} counsel leading Mr. B. Mukherjee, learned counsel for the applicants renews his prayer for grant of the interim order restraining the respondents from giving less pay to the applicants from and for the month of December '97 onwards. Mr. Bose argued at length in support of his prayer for interim order restraining the respondents from giving effect to the impugned order dated 13.12.97 and also allow the applicants to receive the salaries and allowances without any reduction.

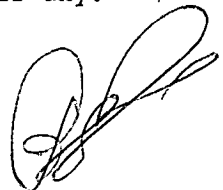
3. The matter has been carefully considered by us. It is a settled law that a Court or a Tribunal should not ordinarily tinker with pay scale once it is fixed by the expert committee and accepted by the Government, unless it is done absolutely ^{in an} arbitrary or malafide manner. After hearing the learned counsel of both the parties we find that the pay scale of the applicants has been fixed as per acceptance order on the 5th Pay Commission recommendation made by the Government and accordingly they have been paid for from the month of December onwards. We are, therefore, of the view that the action taken by the respondents has been on the basis of the acceptance order. However, it is entirely a different matter whether on the basis of the acceptance order the fixation of the pay scale of the applicants has been correctly done and in fact, this has been challenged by the instant applicants before us. We are of the considered opinion that there is no case for issuing an interim order for restraining the respondents from giving effect to the impugned order dated 13.12.97 passed by them reducing the pay scale of the applicants from the month of December onwards. Therefore, the prayer for interim order is rejected.

4. The application is admitted. The respondents is directed to file reply within four weeks. After the reply has been filed, the applicants are given liberty to file a rejoinder, if any.



(D. Purkayastha)

MEMBER (J)



(B.C. Sarma)

MEMBER (A)