

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
OA 214 OF 1997

Present : Hon'ble Mr. S. Biswas, Administrative Member  
Hon'ble Mr. M. L. Chauhan, Judicial Member

Brindaban Chatterjee,  
S/o Late Sarat Ch. Chatterjee,  
Retired A.A. under FA & CAO,  
S.E.Rly. Garden Reach, Calcutta-43  
R/o 12/4, Sourin Roy Road,  
P.S. Behala, Calcutta-34

VS

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

.... Respondents

For the applicant : Mr. B.C.Sinha, Counsel

For the respondents : Mr. P.Chatterjee, Counsel

Date of order : 19.3.2002

O R D E R

M.L.Chauhan, J.M.:

The applicant is aggrieved by the action of the respondents in not granting him selection grade to the post of Clerk, Gr. I in the scale of Rs. 425-700/- w.e.f. 1.4.80 when some of his juniors were given such selection grade in the centralised cadre. By way of this application, he has prayed for direction upon the respondents to grant him selection grade in the scale of Rs. 425-700/- w.e.f. 1.4.80 with all consequential benefits including enhanced retiral benefits.

2. The applicant was appointed as Clerk, Gr.II on 20.10.55 in the Accounts Deptt of S.E.Rly. He was promoted to the post of Clerk, Gr.I on 29.4.60. Special pay of Rs. 35/- was also granted to him in the said post w.e.f. 5.5.79. He was also granted selection grade as Clerk, Gr.I w.e.f. 1.1.82. The grievance of the applicant is that he has not been extended the benefit of the order dated 6.7.82 of the

Cuttack Bench of the Tribunal passed in OA 386 of 1986 as also the order of this Bench of the Tribunal dt. 30.1.92 passed in OA 1025/1988 although many of his juniors had been granted such benefit of higher selection grade. The applicant submits that he made a representation to the concerned authority on 25.6.93, copy of which has been annexed as Annexure-A3, but the same was replied in the negative vide letter dt. 25.11.93 (annexure-A4) wherein it was inter alia stated that "the staff who are allowed the benefits as pointed out by you to be your juniors, were granted as such in obedience to the orders of Hon'ble CAT". Hence this OA.

3. The respondents have filed a reply affidavit thereby contending that 20% of the posts of Clerk, Gr.I in the scale of Rs. 330-560/- were upgraded in the scale of Rs. 425-700/- and the nomenclature of the said upgraded posts was changed to SGCG I w.e.f. 1.4.80. These upgraded posts were required to be filled in on the basis of seniority-cum-suitability from amongst the seniormost Clerks, Gr.I, who fulfilled the criteria laid down by the Railway Board's Circulars contained in CPO's Establishment Serial No. 170/78 (annexure-R3). Accordingly, those who were senior and suitable and came within the 20% of the seniormost staff of the Centralised General Accounts Cadre of Clerk, Gr.I got the benefit of Selection Grade Clerk Gr. I irrespective of whether they were posted at Headquarters/Divisions. It is further contended that the benefits were given to some persons pursuant to the judgement of the Cuttack Bench in OA No. 386 of 1986 and also the order of the Calcutta Bench in OA No. 1025/88. It is submitted that the said benefits were granted to such persons in order to comply with the orders of the Tribunal. It is further submitted that in those cases, proper facts were not placed before the Tribunal. So far as the fact that some of the juniors of the applicant were also given such benefit of selection grade w.e.f. 1.4.80 is concerned, the respondents have not denied same in their reply. The relevant portion of the reply affidavit where this averment finds mention is reproduced hereinbelow :-

" So the juniors as indicated by the applicant have been given benefit only to obey the Court's order and not given in general and that was also informed to the applicant vide annexure-A4 in the instant Original application."

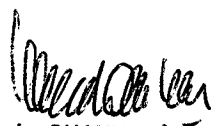
4. Thus from the facts as stated above, the only question which requires our consideration is whether the respondents authorities were justified in denying the benefit of selection grade of Rs. 425-700/to the applicant w.e.f. 1.4.80 though admittedly he had been granted the said selection grade w.e.f. 1.1.82.

5. As already stated above, there is no dispute regarding the fact that 20% of the posts of Clerk, Gr.I in the scale of Rs. 330-560/- were upgraded in the newly designated posts of Selection Grade Clerks Grade (SGCG I) w.e.f. 1.4.80 in the higher scale of Rs. 425-700/-. It is also not disputed that the said upgraded posts were to be given to the seniormost Clerks, Gr.I on the basis of seniority-cum-suitability subject to fulfilment of conditions as stipulated in Establishment Serial No. 170/78. Admittedly, it is not the case of the respondent authorities that the applicant did not fulfil the conditions as laid down in the said circular serial No. 170/78 nor is it their case that the applicant was not found suitable for grant of this higher selection grade post. It is also not in dispute that the persons junior to the applicant had been given such benefit though they have stated that it was done pursuant to the orders of the Cuttack Bench and Calcutta Bench of the Tribunal. Since the applicant fulfilled the criteria as laid down by the respondents in their circular mentioned above, and he being the senior Clerk, Gr.I, and also since he had been adjudged to be suitable to hold that post, he was given such benefit w.e.f. 1.1.82. In such circumstances, we are of the opinion that the respondents were not justified in denying the benefit of selection grade to the applicant from the date when his juniors had been granted such scale. Accordingly, we hold that the applicant is entitled to the benefit of higher selection grade of Rs. 425-700/w.e.f. 1.4.80 i.e. the date

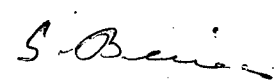
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when his juniors were granted such higher selection grade.

6. In the result, the application is allowed. The respondents are directed to issue necessary orders antedating the grant of selection grade of Rs. 425-700/- to the applicant w.e.f. 1.4.80 i.e. the date when his juniors were admittedly granted this higher scale. The applicant is held entitled to all consequential benefits including refixation of his pension and other retiral benefits based on this order. This order be complied with and all arrears paid to the applicant within four months from the date of communication of this order. No costs.

  
(M.L. CHAUHAN) 19/3/02

MEMBERE(J)

  
(S. BISWAS)

MEMBER(A)