

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Original Application No. 550 of 1990

Mahadeo Pal and others Applicants.

versus

Union of India & others Respondents.

Shri R.K.Saxena &
Shri R.C. Saxena

Counsel for Applicants

Shri J.P. Mani Tripathi Counsel for Respondents

Coram:Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants have filed this application under section 19 of the Administrative Tribunals Act, 1985 with the prayer to direct the respondents to implement the provisions of Railway Board letter dated 18.6.81 for fixing the pay of applicants from 1.10.80 or from the date of appointment on proforma basis in the scale of Rs 330-560.

2. According to the applicants, proforma fixation should have been done w.e.f. 1.10.80 in view of the Railway Board letter dated 18.6.81 and the Railway Board directions are not complied with.

3. Applicants, 15 in number are either working as Headclerks or Assistant Superintendents or D.S.K. Grade II under the control of Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow. On 18.6.81, after getting sanction from the President of India for restructuring of Cadre of Ministerial staff other than

personnel branch that 13 1/2 % of total posts of Senior clerk will be filled from amongst the Graduate Clerks already serving in the lower grade and the vacancies will be filled by a competitive examination, which was further modified and made applicable to the personnel department vide Railway Board's letter dated 31.7.81. These posts were to be filled from amongst the graduate clerks already serving and promotion order will take effect from 1.10.80. Another letter was issued by the Railway Board on 15.10.82, implementation of which was stayed by the Hon. Supreme Court and thereafter letter was issued by the Railway Board on 18.6.81 subject to the decision of the Hon. Supreme Court in the writ petition filed by All India Ministerial Staff Association which was dismissed as withdrawn. Thereafter, the Board directed for immediate restoration of the letter dated 18.6.81. After dismissal of the writ petition before Hon'ble the Supreme Court an examination was conducted on 2.6.85 and the applicants were also directed to appear in viva and voce in which they also qualified as a result of restructuring all these applicants were upgraded in the grade of Rs 330-560 vide order dated 15.10.85 giving them benefit of proforma fixation from 8.10.85 and thus according to the applicant directions of Railway Board letter dated 18.6.81 were ignored for fixation of pay of applicants w.e.f. 1.10.80. The applicants made representation against the same and failing to get any response, they approached the Tribunal. They filed O.A. No. 132 of 198 S.K. Sandhya vs. Union of India before C.A.T. Allahabad and the application was allowed in their favour and the directions as prayed for by the applicants were granted

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even then the applicants have been deprived of the benefit even though the similar applications were also allowed by the other Benches of the Tribunal.

4. The respondents, in the counter reply have stated that in para 2 of the Board's letter dated 18.6.81, it is provided that for filling 13 1/3% of posts from serving graduates working in Lower Grades through competitive examination to be held by Rly. Service Commission, which order was applicable with effect from 1.10.1980 for those who were available since few of the applicants were not available on 1.10.1980.

5. The applicants, were brought in the panel of senior clerks on regular basis w.e.f. 8.10.85, but according to the applicants, some of the applicants i.e. from 1 to 6, 10 and 13 were promoted as Junior Clerks before 1.10.80 and the rest were appointed on 1.10.80 on different dates and as per judgment of this Tribunal in T.A. No. 132 of 1986, Clerks who were appointed were entitled for benefit w.e.f. 1.10.80 and junior clerks were entitled to proforma fixation in the grade of senior clerks. The plea of limitation has also been vehemently refuted as representations were pending.


6. In the case of S.K. Sandhya (O.A.No. 132 of 1986) decided by this Tribunal, the claim for proforma fixation on the basis of para II of the Railway Board letter was allowed. T.A.No. 1301 of 1986 decided on Calcutta Bench relying on S.K.Sandhya's case referred to above in which it was held that upgradations were to be made from 1.10.80 for effecting from the date qualified candidates took over the charge i.e. 1.10.80 and allowed the claim.

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Hyderabad Bench of the Tribunal, with which Calcutta Bench also agreed, held that ~~they~~ five applicants were appointed prior to 1.10.80 and the benefit of proforma fixation was available to them.

7. The plea raised in this case is also similar and there appears to be no reason why this application be not allowed. Accordingly this application is allowed and the respondents are directed to give proforma fixation from 1.10.80 but those who were appointed of appointment will get benefit from the date and let it be done including the consequential benefits within three months. Application stands disposed of with the above directions. observations. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated 25th Feb 1993