

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.No. 260/91

Arun Kumar Srivastava

Applicant.

versus

Union of India & Others

Respondents.

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

Hon. Mr. K. Obayya, Adm. Member.

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

The applicants, feeling aggrieved with the circular of the Railway Board dated 15.5.87 has approached the Tribunal contending that he has been discriminated as the above letter is discriminatory and violative of Articles 14 and 16 of the Constitution of India and is entitled to the benefits of the judgment delivered by Benches of the Administrative Tribunals in this connection and yet he has been denied ^{equal} pay for equal work although he performed similar duties. The applicant who was recruited as Commercial Apprentice before 15.5.87, has not been given the benefit of pay scale of Rs 1600-2660 while those junior to him recruited after 15.5.87 have been given benefit of the said pay scale and as such he has prayed that he may be granted the pay scale of - 1600-2660 and also the monetary benefits, and seniority etc. The applicant

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was recruited as Commercial Apprentice in the Railway and while working as Claim tracer, he was recruited against departmental quota in the year 1984. Prior to 15.5.87 the prescribed qualification of Commercial Apprentice was Graduation with Law degree as preferential qualification, but after 15.5.87 law degree qualification has been dropped. After recruitment against the departmental quota the applicant was sent for training course held from 22.8.84 to 31.12.86 at Chandausi. It was thereafter he was appointed as Clims Inspector in the scale of Rs 455-700 which was revised as per recommendations of the IV th Pay Commission in 1986, to the scale of Rs 1400-2300. The applicant has been promoted to the scale of Rs 1600-2660 with effect from 22.1.91 and prior to that his salary was fixed in the scale of Rs 1400-2300 and the said circular dated 14.5.87 prescribed different pay scale for the same category of staff i.e. those who were recruited after that date and those who were recruited before that date were given the pay scale of Rs 1400-2300 on being posted on the regular posts. The said circular was challenged before the Central Administrative Tribunal Madras Bench who gave the benefit of scale of Rs 1600-2660 with all consequential and monetary benefits to those Commercial Apprentices recruited before 15.5.87. The Review application against the same was dismissed and the

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S.L. P was also dismissed. The Central Administrative Tribunal Allahabad Bench vide its judgement dt.

passed in U.A. No.

also took the same view. The applicant/^{represented} the matter and after rejection of their representation the applicant approached the Tribunal.

2. The Railway Administration have justified their stand pleading that the persons already working in the grade of Rs 1400-2300 including those who are undergoing training have been made eligible to appear in the examination upto the age of 50 years and in case of competitive examination and other cases 45 years. After getting selected for recruitment in the higher scale, they will not be required to be sent for training again and they also placed reliance on the judgment given by Bombay Bench of the C.A.T. to which one of us (Hon. ^{Judge} V.C.) was a Member) in which ^{somewhat} / contrary view has been taken. Apart from that when the question was raised, there was some difference in facts, even otherwise while deciding the said case the decision of Madras Bench of the Tribunal (C.A.T.) in U.A. No. 322/88 and 438/87 'P. Bright Samuel and others vs. Union of India and others' decided on 4.12.91 in which it was directed that the benefit of revision of pay and fitment on absorption vide the Railway Board's letter No. E(MG)II/84/HC 3/15(AIRF) dated 15.5.1987 should be given to the applicants in both the U.s from 15.5.1987 with consequent monetary benefits. This shall be done without putting

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then through any final retention test' was not taken notice of. The applicants in that cases were also recruited as Traffic Apprentices and had completed 3 years training like the applicant of this case. The judgment in O.A. No. 770/91 decided on 27.11.91 the similar view was taken, against the S.L.P. was filed in the Hon'ble Supreme Court which was dismissed. This Bench in the case of Ram Sukh^{ad} vs. Union of India (O.A. No. 1929/1982) decided on ^{10.5.91} we had taken the similar view and in a few other cases also this Bench took the similar view. The judgment given in Bombay Bench was pre-incurium and cannot be made by way of defence. The applicant's case is similar to other cases and there appears to be no reason why this benefit should not be given to the applicant and this case be not allowed like others which have been allowed by this Tribunal.

3. Accordingly this application is allowed and the respondents are directed to give the applicant the benefit of Railway Board letter dated 15.5.87 referred to above with effect from 15.5.87 and this will be done without subjecting them to any written test and this should be done within three months from the date of receipt of a copy of this judgment by the respondents. No order as to costs.

Adm. Member.

Vice Chairman.

Shakeel/-

Lucknow: Dated 31/1/1993.