

CENTRAL ADMINISTRATIVE TRIBUNAL, ,LUCKNOW

Lucknow this the 8th day of May, 97.

O.A. No. 408/92

HON. MR. V.K.SETH, MEMBER(A)

HON. MR. D.V. VERMA, MEMBER(J)

1. J.K. Raina aged about 31 years, son of Sri J.N. Raina, resident of B-2307, Indira Nagar, Lucknow.
2. Prem Prakash aged about 33 yrs, son of Sahdev Prasd, R/o M.D.I./150 Daya Kunj, L.D.A. Colony, Kanpur Yojna, Lucknow.
3. Ramanand aged about 37 years, son of Sri Poornwasi, R/o Mohaddipur North near Railway Swimming Pool, Over head Water Tank, Gorakhpur.
4. Sri Hari Shankar, aged about 36 years, son of Sri Ram Asrey resident of Assistant master Buhwal.

Petitioner

By Advocate: None.

versus

1. Union of India through the Secretary Railway Board, Rail Bhawan, New Delhi.
2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. The Geneal Manager, N.E. Railway, Gorakhpur.
4. The Divisional Railway Manager, N.E.Railway, Ashok Marg, Lucknow.

Respondents.

By Advocate Shri V.K. Srivastava.

O R D E R(ORAL)

HON. MR. V.K. SETH, MEMBER(A)

Vide this O.A. the applicants have prayed that they be allowed the same benefits

which have been allowed by the Tribunal in judgment of O.A. 79/91 in the case of R.P. Upadhyaya and others vs. Union of India enclosed as Annexure-1 with the O.A. It is prayed that the applicants be allowed the pay scale of Rs 1600-2660 from the date of passing the training i.e since January, 1989 and arrears of difference with interest has also been claimed.

2. Pleadings have been exchanged between the two sides which we have perused. We have also heard the learned counsel for the respondents. The learned counsel for the applicant was not present and there was also no request on behalf of the applicant for adjournment of the case.

3. The judgment of Lucknow Bench cited in the O.A. while agreeing with the decision of Madras Bench in O.As 322/88 and 488/87 directed that the benefit of higher grade of Rs 550-750/1600-2660 be granted to the applicants with effect from 15.5.87 or the date of completion of training whichever is later with consequential and related benefits.

4. The respondents on 133.97 have filed a short counter reply dated 24.2.97 enclosing therewith as Annexure C.A. the judgment of the Hon'ble Supreme Court in Civil Appeal No. 5410 of 1992 with various other Civil Appeals. In the said judgment of the apex court an identical matter has been dealt with as is evident from the first para of the judgment. The matter related to certain aspects of the Railway Board Memo dated 15.5.87 on the subject of recruitment of Traffic/

Commercial apprentices. The questions which arose for decision were the purport of the memo and the validity of the same. The operative portion of the judgment is contained in paras 47 and 48 thereof and reads as below:

"All the appeals, therefore, stand disposed of by setting aside the judgment of those Tribunals which have held that the pre-1987 Traffic/Commercial Apprentices had become entitled to the higher pay scale of Rs 1600-2660 by the force of memorandum of 15.5.87. Contrary view taken is affirmed. We also set aside the judgment of the Ernakulam Bench which declared the Memorandum as invalid, so too of the Patna Bench in appeal & SLP (C) No. 15488 of 1994 qua respondent No. 1. We also state that cases of respondents 2 to 4 in appeals & SLP(C) No. 8533-35 of 1994 do not stand on different footing.

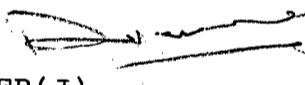
48. Despite the aforesaid conclusion of ours, we are of the view that the recovery of the amount already paid because of the aforesaid judgments of the Tribunals would cause hardship to the concerned respondents/appellants and, therefore, direct the Union of India and the officers not to recover the amount already paid. This part of our order shall apply (1) to the respondents/appellants who are before the courts and (2) to that pre-1987 ..... in whose favour judgment had been

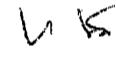
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delivered by any court and which had become final either because no appeal was preferred to this Court or if carried, the same was dismissed. The benefit would be available to no other."

5. It needs no mention that the judgment of the Hon'ble Supreme Court lays down the law and is binding on all concerned. We therefore, hereby order that the respondents shall decide the cases of the applicants in the present O.A. in terms of the judgment of the Hon'ble Supreme Court dated 6.5.96 in the matter referred to above within a period of two months if already not decided in terms of the above judgment.

6. The O.A. stands disposed of as above with no order as to costs.

  
MEMBER(J)

  
MEMBER(A)

Lucknow; dated: 8.5.97

Shakeel/