

(11)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO.: 139/89.

Shri D. G. Ranade & 96 Others ... Applicants

Versus

Union Of India & Others ... Respondents.

CORAM

Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

APPEARANCE :

1. Shri G. S. Walia,
Advocate for the applicant.
2. Shri J. G. Sawant,
Advocate for the respondents.

ORAL JUDGEMENT

DATED : AUGUST 19, 1994.

(Per. Shri M. S. Deshpande, Vice-Chairman)

1. The 97 applicants in the present case were working as Upper Division Clerks i.e. CG Grade-I in the scale of Rs. 330-560. By the letter dated 11th July, 1979, 10% of the post of Senior Clerks/ Clerks Grade-I in the scale of Rs. 330-560 were identified as handling work of complex nature involving deep study and competence to deal with such cases. The posts so identified

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were granted a special pay of Rs. 35.00 per month. The total number of such posts were limited to 10% of the post in the seniority groups of the respective clerical cadres. These orders were to take effect from 05.05.1979. By the order No. SOO 2 of 1986, in terms of the aforesaid letter, about 124 persons including the present 97 applicants were found suitable to hold posts carrying complex nature of work and were granted special pay of Rs. 35.00 per month with immediate effect. As a result of the recommendations of the Fourth Pay Commission, the grade of Rs. 330-560 had been equated to the scale of Rs. 1400-2600 and by the order which is at Exhibit 'C', the Special Pay of Rs. 35.00 was taken into account alongwith the existing scale of pay while granting the benefit of the revised scale of pay to those persons. However, by the letter at Exhibit 'D', the Railway Board vide R.B.E. No. 241/87 dated 29.09.1987 directed that the Special Pay is not to be taken into account under Rule 7(1)(B) of the Railway Services (Revised Pay) Rules, 1986. Feeling aggrieved by this direction, the present applicants have approached this Tribunal.

2. The Learned Counsel for the respondents stated that the reply in the present case was filed in July 1989 but in the year 1990, in respect of the applicant - D. G. Ranade, his Special Pay of Rs. 35.00 had been taken into account while granting the benefit of the revised scale of pay. He further stated that he was not aware as to what was done in respect of the other applicants. With regard to the legal

position, in view of the decision in 1988 S. Mohan Kumar V/s. Comptroller and Auditor General Of India, New-Delhi and Others and All India Postal Acctt. Employees Association & Others V/s. Union Of India & Others 1992 (2) Administrative Tribunal Judgements Page 324, there is no doubt ~~that it has been~~ laid down that the cases of the employees such as the present, would fall under Clause 7(1)(B) of the CCS (Revised Pay) Rules and the existing amount of special pay shall have to be taken into consideration because in the pre-revised scale they were drawing Special Pay and no Special Pay was provided for in the revised scale. The Impugned Order dated 29.09.1987 at Exhibit 'D' cannot therefore be sustained.

3. The letter dated 29.09.1987 is quashed and set aside and the respondents are directed to take into account the special pay of Rs. 35.00 while fixing the pay of the applicants in the revised pay scale of Rs. 1400-2600 and pay to the applicants all the arrears resulting therefrom within three months from the date of communication of this order unless the relief has already been granted to the applicants.

4. With the above directions, the O.A. is disposed of with no order as to costs.

(M. S. DESHPANDE)
VICE-CHAIRMAN.