

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 293/89

199

T.A. NO: ----

DATE OF DECISION 12-2-1992

A.N.Dias and 14 others

Petitioner

Mr.G.S.Walia

Advocate for the Petitioners

Versus

Union of India and other

Respondent

Mr.J.G.Sawant

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *N*
2. To be referred to the Reporter or not ? *N*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *N*

U.C.
(U.C.SRIVASTAVA)

mbm* MD

(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.293/89

A.N.Dias and 14 others,
C/o.Mr.G.S.Walia,
Advocate High Court,
89/10, Western Railway
Employees' Colony,
Matunga Road,
Bombay - 400 019.

.. Applicants

vs.

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.,
Bombay - 400 001.
2. Divisional Railway
Manager,
Central Railway,
Bombay V.T.,
Bombay - 400 001.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.G.S.Walia
Advocate for the
Applicant.
2. Mr.J.G.Sawant
Advocate for the
Respondents.

ORAL JUDGMENT:
(Per U.C.Srivastava,Vice-Chairman)

Date:12-2-1992

The applicants 15 in number were selected by the Railway Service Commission on 1-4-85 as Apprentice Fireman, Grade 'A'. they were paid a consolidated stipend during apprenticeship period. Later on they were absorbed as Diesel Assistant on successful completion of training their pay of and fixed at the ~~minimum~~ grade Rs.290/- 350(RS) to which they were appointed and they were fixed at Rs.290/- the minimum of the grade. The IVth Pay Commission recommended that employees in Grade Rs.290-350(RS)+ Rs.260-400(RS) be placed in the revised grade of Rs.950-1500(RPS) with effect from

1.1.1986. It was thereafter the pay of the applicants were fixed at Rs.1200/- but it appears that few months thereafter the pay of the applicants were reduced to Rs.950/- and the justification which has been given by the respondents is that the recommendations of the IVth Pay Commission was that any appointment after 1-1-1986 shall be subject to provision of the new scales. The applicants having been appointed on a date subsequent to 1.1.1986 and being eligible to start at the minimum of the grade of Diesel Asstt. which as per the revised recommendation is Rs.950-1500 (RPS) was to be fixed at Rs.950/- only, and those who were appointed i.e. were in service prior to 1-1-86 and on a basic pay of Rs.290/- were eligible for the fitment at Rs.1200/- and it is only by way of mistake that the applicants pay was wrongly fixed and the moment mistake was detected the same was rectified That is why the pay was reduced.


2. On behalf of the applicant it was contended that the pay was rightly fixed and further the applicants were given pay scale by the administration itself and worked on the ~~basic~~ post so no recovery can be made.

3. Obviously it appears to be a case of mistake and that is why earlier fixation was done. The moment mistake had been notice by the Govt. itself it was rectified but no one should suffer for the mistake which has been committed by the administration itself. In case the administration was inclined to make recovery no recovery could have been made from the applicants without giving them any opportunity of hearing and in the instant case the Govt. has passed ex-parte order and started making recovery


which should not have been done.

4. Accordingly this application is allowed in part and so far as the recovery part is concerned the same is quashed. The recovery can be made from the applicants only after giving them an opportunity of hearing and without that no recovery order can be passed. Learned counsel for the applicant contended that the Railway Board's own circular in this behalf dtd. 27-1-89 says that no such recovery can be made ~~in in~~ and in case any such ~~recovery~~ ~~has~~ payment has been made wrongly the same shall be treated as personal pay. All these are the matters for the applicants which may be mentioned in their representation whenever an opportunity is given to them. The amount which has been recovered in the ~~meantime~~ meantime shall be refunded and no recovery shall be made without following the procedure stated earlier above.

5. The application is disposed of on the above lines with no order as to costs.


(M.Y. PRIGOLKAR)
Member(A)

MD


(U.C. SRIVASTAVA)
Vice-Chairman