

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CAMP AT NAGPUR  
O.A.NO:141/93

THURSDAY the 14th day of MARCH 1996

CORAM: HON'BLE SHRI B.S.HEGDE, MEMBER(J)  
HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

1. Smt.Padma Jagdale
2. Shri Prashant Jagdale  
(Legal heirs of late  
Shri Purushottam  
Gangadhar Jagdale  
original applicant)  
29, Ramkrishna Nagar,  
Khamla Road, Ajni Chowk,  
Nagpur.

(By Advocate Shri SC Shrimali) .. Applicants

-versus-

1. Union of India  
through  
General Manager,  
Central Railway,  
Bombay V.T.
2. Financial Adviser  
and Chief Accounts  
Officer,  
Central Railway,  
Bombay V.T.

(By counsel Shri P.S.Lambat) .. Respondents

ORDER  
¶Per B.S.Hegde, Member(J) ¶

Heard Shri S.C.Shrimali for the  
applicant and Shri P.S.Lambat counsel for the  
respondents. The only contention raised in this  
O.A. is that to declare that the applicant  
shouldered higher responsibilities while  
working as clerk grade-I upto 29-10-1982 and  
according to his seniority position he is  
entitled to the payment of special pay @ Rs.35/-  
per month from 14-10-1982 when it was granted  
to his juniors with all arrears and consequential  
benefits.

2. Counsel for the applicants draws our attention to the circular dt. 11-7-79 wherein it is stated that Upper Division Clerks e.g. Senior Clerks/Clerks Gr.I in scale Rs.330-560 in the non-secretariate Administrative Offices attending to the work of a more complex and important nature may be granted a pseical pay of Rs.35/-p.m. The total number of such posts should be limited to 10% of the posts in the seniority groups of the respective clerical cadre i.e. 10% of the posts of senior clerks/Clerks Gr.I in scale Rs.330-560 and these posts should be identified in consultation with Financial Adviser. The filling up of the 10% of the posts should be on seniority-cum-suitability basis. However, before posting the persons against 10% posts, it should be ensured that senior persons are not ignored and in case somebody senior enough is not filling to be considered for these posts or he is not considered suitable for the same he should clearly be told that he will have no claim for higher fixation of pay subsequently when he is selected for higher grade. Learned counsel for the applicant also draws our attention to the latest Supreme Court judgment in the case of E.Gopalakrishnan & Ors. v. U.O.I. 1995(5)SLR(SC)800 wherein the Supreme Court has laid down that the benefit was given only to those who continued in service after September 1, 1985. Learned counsel for the applicant states that since the applicant retired only in 1990 ratio laid down in the Supreme Court case should be applied.

On a query to the applicant's counsel whether at the time of promotion any vacancies under 10% were available or not, the counsel was not able to answer. Against this learned counsel for the respondents submits that applicant could not be considered under the 10% vacancy at the relevant time of promotion. In the circumstance, we see no ~~mix~~ merit in the application the same is dismissed.

M.R.Kolhatkar

(M.R.KOLHATKAR)  
Member(A)

B.S.Hegde

(B.S.HEGDE)  
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

REVIEW PETITION NO.: 4/96 IN O.A. NO.: 141/93.

Dated, this 28<sup>th</sup>, the    day of August, 1996.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Smt. Padma Jagdale & Anr.      ...      Applicants

VERSUS

Union Of India & Others      ...      Respondents.

Tribunal's Order by circulation :

In this Review Petition the petitioners are seeking review of the judgement dated 14.03.1996.

2. On the basis of Railway Board's letter dated 11.07.1979, the Senior Clerks in the grade of Rs. 330-560 attending the work of more complex and important matters are granted special pay of Rs. 35/- per month provided that the total number of such posts should be limited to 10% of the posts of Clerk Grade-I in the pay scale of Rs. 330-560/-. Admittedly, the applicant at the time of promotion did not come within the 10% quota available, thereby, he could not be given the benefit.

3. In this R.P. the applicant did not bring out any new facts nor pointed out any error crept in the judgement. In the result, the R.P. is not maintainable and thus dismissed.

*M.R.Kolhatkar*

(M. R. KOLHATKAR)  
MEMBER (A).

*B.S.Hegde*

(B. S. HEGDE)  
MEMBER (J).