

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:522/94

DATE OF DECISION: 27.2.2001.

Central Railway Promotee Officers Association Applicant,
and others.

Shri G.K. Masand Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri S.C.Dhawan Advocate for
Respondents

CORAM

Hon'ble Shri Justice Ashok C.Agarwal, Chairman.

Hon'ble Ms. Shanta Shastry, Member (A)

(1) To be referred to the Reporter or not? X

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library.

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(Ms. Shanta Shastry)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:522/94

TUESDAY the 27th day of FEBRUARY, 2001

CORAM: Hon'ble Shri Justice Ashok C. Agarwal

Hon'ble Ms. Shanta Shastry, Member (A)

1. Central Railway Promotee Officers Association through its President
3/22, Railway Officers Flats,
Lower Nesbit Road,
Mazgaon, Bombay.
2. J.N. Madan
Senior Divisional Railway Manager (Works)
Residing at
1/10, Central Railway Officers Flats,
Matunga, Bombay.Applicants

By Advocate Shri G.K. Masand

v/s

1. Union of India through The General Manager,
Central Railway,
Bombay V.T.
2. Railway Board,
Ministry of Railways
Rail Bhavan, New Delhi.Respondents.

By Advocate Shri S.C.Dhawan.

ORDER (ORAL)

{Per Ms. Shanta Shastry, Member (A)}

The main grievance of the applicants in this case is that they have been denied the incentive increments for acquiring higher qualifications while in Group 'C' or Group 'D' after they came into Group 'A' on the ground that the scheme is not applicable to Group 'A' employees. The applicants have therefore

prayed that the decision of the respondents in respect of incentive increments only to those officers working in Group 'B' and not extended to the promoted Group 'A' officers is illegal and violative of Article 14 and 16 of the Constitution of India and to hold and declare that all promotee officers working in Group 'A' and 'B' service are entitled to incentive increments sanctioned by the Railway Board by letter dated 4.5.1990, if they had acquired higher qualification. The applicants have also claimed arrears with interest at 18% per annum from the date they become eligible for the payment.

2. The incentive increment scheme was announced by the Ministry of Railways vide letter dated 4.5.1990. According to which incentive in the shape of advance increments for those working in Group 'B' officers has been provided. A total of 6 advance increments is available, two advance increments while working in Group 'C' and four increments while working in Group 'B'. A conscious decision have been taken by the respondents not to extend this benefit to those who are working in Group 'A' service.

3. In the present case the contention of the applicants is that they had acquired higher qualification while they were working in Group 'B'. However by the time the new incentive scheme of 4.5.1990 came into force, they had already been promoted to Group 'A', therefore they are entitled to the



incentive as per the higher qualification acquired earlier while they were in Group 'B'. Further the applicants stated that those who were junior to them in Group 'B' and who were promoted later on to Group 'A', are drawing more total emoluments than the applicants in Group 'A'. The learned counsel for the applicants has shown the statement indicating the situation that has arisen because of the denial of incentive to Group 'A' promotees who had acquired the qualification earlier while they were working in Group 'B'. The applicants have therefore demanded that they should be given the benefits of the incentive scheme.

4. The learned counsel for the respondents submits that it is a policy decision of the Government. Earlier the incentive scheme was available only to Group 'C' employees. Later on it has been extended to Group 'B' employees only from 4.5.1990. However a conscious decision was taken not to extend this benefit to promotee Group 'A' officers. This issue was examined by a committee of Secretaries to Government of India and they decided that nothing further can be done in the matter and it was closed. The learned counsel for the respondents therefore argued that being a policy matter the applicants cannot claim this as a right. This scheme is now replaced by granting of a lump sum after the recommendations of the 5th Pay Commission. Even the Tribunal cannot interfere in policy matters.

5. The learned counsel for the respondents also produced a copy of the judgement of the Hyderabad Bench of this Tribunal in OA 956/92 decided on 8.11.1993 in a similar matter. The Hyderabad

Bench rejected the applicant's case on the ground that since he had already been promoted to Group 'A' on 4.5.1990 he was not entitled to incentive increment under the letter of 4.5.1990. Further the learned counsel for the respondents drawn our attention to a judgement of the Hon'ble Supreme Court in the case of State of Haryana V/s Dr. A.K. Sinha dated 20.2.1997 reported in 1997(1) ACSLJ 486. The Hon'ble Supreme Court held that the incentive scheme of the State Government for incumbents acquiring Phd degree could not be granted to IAS officers in the absence of the concurrence by the Central Government. The learned counsel for the respondents therefore onceagain contended that this being a policy matter the decision of the Government does not call for any interference by the Tribunal.

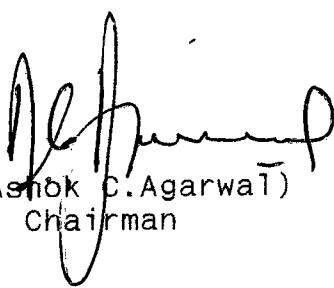
5. We have heard the learned counsel for the applicant as well as the respondents. We do find that it is purely a policy decision of the Government to grant incentive increments or otherwise to its employees. The Tribunal has no jurisdiction to question the policy decision of the Government. At the same time it cannot be ignored that an anomalous situation has arisen because of this decision of denial to the promotee Group 'A' employees who had acquired higher qualification while they were in Group 'B' service. It certainly hurts. As of today those who were junior to the applicants and who were promoted later than the applicants to Group 'A' are getting more emoluments than the applicants. This is a fact which cannot be brushed aside.

6. The anamoly needs to be removed. Though it is not for us to interfere with the policy of the Government, in our view the anamoly in the emoluments of the Senior promotee Group 'A' employees vis-a-vis their juniors needs to be removed. Therefore the respondents are directed to reconsider whether this anomalous situation can be rectified.

7. The OA is disposed off accordingly. No costs.

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(Ms. Shanta Shastry)
Member(A)



(Ashok C. Agarwal)
Chairman

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