

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.14/98

Thursday this the 7th day of March, 2002.

CORAM : Hon'ble Shri Gopal Singh, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

1. Miss S.G.Khalsa
2. Miss S.L.Sarada
3. Mrs.S.H.Kriplani
4. Mrs.M.Mirchandani
5. Mrs.N.P.Bodas
6. Mrs.R.K.Sahajwala
7. Mrs.S.Y.Narvekar
8. J.K.Shetty
9. Mrs.R.M.Bhatia
10. Mrs.B.M.Gehani
11. Mrs.N.I.Radhakrishnani
12. Mrs.T.A.Salvi
13. A.W.Baig
14. Mrs.J.Y.Joshi
15. Mrs.N.M.Lalwani
16. Miss M.M.Makhija
17. Mrs.K.S.Soda
18. Miss L.G.Bhutani
19. Mrs.Maya Jhumani
20. Mrs.S.A.Sawant
21. Mrs.M.M.Athalye
22. Mrs.N.M.Inamdar
23. Mrs.S.S.Chaphekar
24. Mrs.R.P.Keluskar
25. Mrs.B.I.Lala
26. Mrs.K.A.Khemlani
27. Mrs.U.V.Joshi
28. A.S.Dhakras
29. Mrs.H.N.Kudtarkar
30. Mrs.P.P.Manjrekar
31. Mrs.A.A.Deshmukh
32. U.C.Raje
33. U.D.Gawate
34. Mrs.S.S.Satyanarayan
35. Mrs.Leela Ramchandran
36. Mrs.V.V.Joshi
37. Mrs.S.S.Raje
38. Mrs.M.M.Dabke
39. Mrs.P.R.Kashelkar
40. Mrs.Sarla Pillai

Gopal Singh

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41. Mrs.Sosama Varghese
42. Mrs.Sheela Mudras
43. Mrs.M.S.Pradhan
44. G.W.Vaidya
45. Mrs.C.P.Gholap
46. Mrs.Asha Radhakrishnani
47. Mrs.Vijaya V.Dharap
48. Mrs.G.V.M.Desai
49. Mrs.S.S.Deodhar
50. Mrs.M.N.Hate
51. K.S.Karia
52. Mrs.P.M.Pandit
53. D.K.Anap

C/o G.S.Walia,
Industrial Traders Bldg.
Nagindas Master Road,
Opp.Mah.State Co-op Bank,
Fort, Mumbai.

...Applicants

By Advocate Shri G.S.Walia

vs.

1. Union of India
through The General Manager,
Central Railway,
Head Quarters Office,
C.S.T., Mumbai.
2. Controller of Stores,
Central Railway Head
Quarters Office,
C.S.T., Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per : Shri Gopal Singh, Member (A)}

In this application under Section 19 of the Administrative Tribunals Act, 1985 the applicants, 53 in number, have prayed for a direction to the respondents to fix the pay of the applicants by taking into account Special Pay of Rs.35/- on their promotion as Head Clerk with all consequential benefits including arrears and interest thereon.

Gopal Singh

...3/-

2. The applicants' case is that they were promoted as Head Clerk vide respondents' order dated 29.8.1985 from the post of Senior Clerk scale Rs.330-560 + Rs.35/- as Special Pay. It is the contention of the applicants that on fixation of their pay on the post of Head Clerk, pay scale Rs.420-570, the respondents' department had not taken into account the Special Pay of Rs.35/- drawn by them as Senior Clerk. Hence this application,

3. In the counter the contentions of the applicants are denied by the respondents. It is stated that none of the applicants shouldered onerous duty while functioning as Senior Clerk and therefore they cannot be extended the benefit of counting of Special Pay as pay for the purpose of fixation of their pay on promotion to the post of Head Clerk. It is also contended by the respondents that many of the applicants were not sanctioned Special Pay. In the circumstances, it is submitted by the respondents that the application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the record of the case.

5. It is seen from the respondents' letter dated 29.8.1985 (Exhibit-'A') that the names of the applicants figured at Sr.Nos. 69,68,73,72,78,79,88,90,98,100,114,120,123,126,127,131,135,71,54, 83,117,139,140,74,105,134,59,95,75,86,41,89,77,76,138,132,60,52, 63, Against these persons, it is shown that as Senior Clerk in

C. P. S. S. S.

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the pay scale of Rs.330-560, they were drawing the Special pay of Rs.35/- and this order of the respondents has not been withdrawn.

This order was issued at the time when these applicants were promoted from Senior Clerk to head Clerk. It is thus clear that these applicants were drawing Special Pay of Rs.35/- before their promotion as Head Clerk. Other applicants were not in receipt of Special Pay of Rs.35/-

6. In the case of The Chief Commissioner of Income Tax (Administration), Bangalore vs. V.K.Gururaj & Ors. - JT 1996 (1) S.C.709, it has been held by Hon'ble the Supreme Court that payment of Rs.35/- p.m. to UDC as Special Pay for discharge of special duties of onerous nature is a personal pay and it was further held that other UDCs who do not perform the special duties though seniors, do not ipso facto get the same pay on the parity of equal pay due to juniors getting higher pay.

7. In order dated 19.8.1994 passed in OA.No.139/89, this Bench while considering the case of pay fixation of Senior Clerks drawing Special Pay of Rs.35/- on their promotion to the post of Head Clerk had quashed the respondents' order dated 29.9.1987 and directed them to take into account the Special pay of Rs.35/- while fixing the pay of the applicants in the revised pay scale of Rs.1400-2600 along with arrears.

Copy of

..5/-

8. In view of the law laid down above, Senior Clerks drawing Special Pay of Rs.35/- would be entitled to take the Special Pay into account for fixing of their pay on their promotion to the post of Head Clerk. The other Senior Clerks who were never sanctioned ~~at~~ Special Pay of Rs.35/- would not be entitled to count this Rs.35/- for the fixation of their pay in the higher post. Accordingly, we pass the order as under :-

This OA. is partly allowed. The applicants who were in receipt of Special Pay of Rs.35/- as Senior Clerk would be entitled to count the Special Pay as pay for the purpose of fixation of their pay on their promotion to the post of Head Clerk. Prayer in respect of other Senior Clerks who were not in receipt of the ~~Special Pay~~ ^{is rejected. They} will not be entitled to count Rs.35/- as part of their pay for the purpose of fixation and to that extent this OA. is rejected in respect of those not drawing Rs.35/- as Special Pay. The applicants would be entitled to arrears on this account ^{from} ~~for~~ a period of one year prior to filing of the OA. They would, however, be entitled for notional fixation from the date it was due. The respondents are given three months time to comply with this order from the date of receipt of a copy of this order. No costs.

S.L. Jain
(S.L. JAIN)
MEMBER (J)

mrj.

Gopal Singh
(GOPAL SINGH)
MEMBER (A)

27/3/2
Judgment despatched
to Applicant/Respondent (s)
27/3/2

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