

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.620/1991

Date of order: 14 -9-1992.

Between

1. A.Venkateshwara Rao
2. N.Brahmanandam
3. R.Rama Murty
4. A.Prasada Rao
5. G.Veerabhadrapa
6. N.Subrameniyam
7. Abbas Hussain
8. V.D.Khadilkar
9. K.Narasimha Murty
10. C.G.Gongadi
11. B.N.Pandurangam
12. K.Venkatesan
13. N.Venugopal Varma
14. P.Jagannadham
15. D.B.Karija Karte
16. K.S.Satyanarayana
17. P.Venkateswara Rao
18. S.V.Neelakantam
19. M.Subba Rao
20. Md. Elias

... APPLICANTS

A N D

- 1*. General Manager,
South Central Railway,
Secunderabad.
2. Railway Board, rep. by its
Chairman, S.C.Rly., Rail Nilayam,
Secunderabad.

... RESPONDENTS

Appearance:

For the applicants	: Shri G.Raghuram, Advocate
For the respondents	: Shri M.Rajeswara Rao, Advocate for Shri D.Gopala Rao, SC for Rlys.

CORAM:

The Hon'ble Shri R.Balasubramanian, Member (Admn.)

The Hon'ble Shri C.J.Roy, Member (Judicial).

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JUDGMENT

(of the Bench delivered by the Hon'ble Shri R.Balasubramanian, Member (Admn.)).

This application is for a direction that the applicants are entitled to the benefit of having their pay in the scale of Rs.425-700 fixed reckoning the component of Rs.35/- per month special pay with effect from the date of their appointment to the scale of Rs.425-700 but with no arrears prior to 1-9-1985, and consequent payment of all the arrears of emoluments, etc., including re-fixation and payment of pensionary benefits on that basis as was extended in the 1st Respondent's proceedings No.PC.III/79/SP/1/UDC dated 2-8-1989.

2. The applicants are retired employees who belonged to the Accounts Department of the South Central Railway. They were granted a special pay when they were functioning as Senior Clerks. They were subsequently appointed to the selection grade in the scale of Rs.425-700. The respondents passed orders to the effect that special pay can be taken into account while fixing pay in the next higher scale. The latest decision contained in the Railway Board's letter dated 2-8-89 was to cover those promoted prior to 1-9-85 excluded in the previous orders, ^{also:} It is the case of the applicants that they come within the scope of this order. But, by order No.PG.III/79/SP/I/UDC dated 29-5-1990 of the Railway Board, this benefit is denied to them. Hence this O.A.

3. The Respondents opposed the O.A. and have filed counter. They have raised the question of limitation and also non-exhausting of alternative remedies. On merits, their point

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is that the Railway Board had drawn a distinction between those promoted from Rs.330-560 scale to Rs.425-700 scale and the likes of the applicants who were merely moved from the same lower to the same higher scale. Therefore the benefit sought for is not available to the applicants.

4. We have examined the case and heard the rival sides. As for limitation, we find that the categorical denial of the benefit asked for, is contained only in the Railway Board's letter of 29-5-1990 and the O.A. is well within the time limit stipulated. Regarding non-exhausting of alternative remedies, we find that the applicants have ^{already} been urging the Railways to reckon the special pay while fixing their pay in the higher scale. The objections on both counts are not sustainable.

5. Coming to merits, the learned counsel for the applicants produced, during the hearing, a copy of the judgment dated 6-9-1991 of the Madras Bench in their O.As. 717, 874 and 767, all of 1990. The main question there ~~therein~~, as also here, is the validity of the Railway Board's letter dated 29-5-1990 based on which the request of the applicants is rejected by the respondents. The Madras Bench quashed the said order dated 29-5-1990. We are in agreement with the Madras Bench. Since the order is already quashed, the results must reach the applicants herein. We, therefore, direct the respondents to apply the Railway Board's order No.PC.III/79/SP/1/UDC dated 2-8-1989 to the applicants in the matter of reckoning special pay for fixation of pay in the scale of Rs.425-700. Consequential benefits following from the letter should also be available to the applicants.

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These orders should be complied with, within four months from the date of receipt of this order. The Application is accordingly disposed of. No order as to costs.

R. Balasubramanian

(R. Balasubramanian)
Member (Admn.)

Dated 14th Sept. 1992

C. J. Roy
(C. J. Roy)
Member (Judl.)

82/9/92
Deputy Registrar (Judl.)

mhb/

Copy to:-

1. General Manager, South Central Railway, Secunderabad.
2. Chairman, Railway Board, South Central Railway, Rail Nilayam, Secunderabad.
3. One copy to Sri. G. Raghuram, advocate, 1-10-13, Ashoknagar, Hyd.
4. One copy to Sri. D. Gopala Rao, SC for Railways, CAT, Hyd.
5. One spare copy. *taken to Encl Court.*

Rsm/-

*Noted
Rm/-*