

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 636/94.

Dt. of Order: 19-10-94.

1. S.Bhadrachallam Reddy
2. N.Krishna Rao
3. M.Anantha Rao

...Applicants

vs.

1. Chief Works Manager,
S & T Workshops, S.C.Railway,
Mettuguda, Secunderabad.
2. Chief Personnel Officer, S.C.Railway,
Railnilayam, Secunderabad.
3. General Manager, S.C.Railway,
Railnilayam, Secunderabad.
4. Union of India represented by
Member (Staff), Railway Board,
Railbhavan, New Delhi.

...Respondents

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Counsel for the Applicants : Shri G.V.Subba Rao

Counsel for the Respondents : Shri J.R.Gopal Rao, SC for Rlys

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CORAM:

THE HON'BLE SHRI A.V.HARIASAN : MEMBER (J)

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....2.

DA 636/94.

Dt. of Order: 19-10-94.

(Order passed by Hon'ble Shri A.V.Haridasan,
Member (J)).

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The common grievance of these three applicants, who were promoted as Head Clerks from the Post of Sr.Clerk on upgradation is that while fixing their pay in the post of Head Clerk their pay happened to be less than ^{the pay of} their juniors. Their juniors were promoted while they were holding the post of Sr.Clerk with a special pay of Rs.35/-. The applicant No.3 retired on 31-7-92.

2. The facts in brief can be stated thus :

The Railway Board vide its letter dt.11-7-79 directed reclassification of 10% of the posts of Sr.Clerks, who were in the grade of Rs.330-560/- for granting ^{to them} special pay of Rs.35/- p.m.

While holding the post of Sr.Clerk with special pay, they were promoted as Head Clerks and their pay was fixed taking into account the special pay also. But by the time the applicants were promoted, a large number of vacancies in the post of Head Clerk arose and therefore without holding the post of Sr.Clerk with special pay, the applicants had to be promoted as Head

Clerks direct. With the result they did not get the fixation of pay reckoning / special pay of Rs.35/- since they did not hold the special pay posts. In that process, the applicants

pay happened to be fixed at a lower stage than that of their juniors. For example, the Applicant No.1 got his pay fixed in the post of Head Clerk lesser than his junior Sri E.Radhakrishna Nair, the Applicant No.2 got his pay fixed less than that of his junior Sri K.Kameswara Rao and the Applicant No.3 got his pay fixed less than that of Sri K.S.Ramachandra Murthy, his immediate junior. Persons similarly effected approached the Tribunal in OA 95/90, OA 192/90, OA 312/90, OA 313/90 & OA 314/90. Original Application No.192/90 was disposed of by the Tribunal vide its order dt.4-3-90 and it is stated that the applicants herein are similarly situated to the applicants in the above referred OAs and entitled to have their pay stepped up with reference to the pay of their juniors and for payment of arrears. Original Application Nos. 195/90, 312/90, 313/90 & 314/90 were also allowed by this Tribunal following the judgment in OA 192/90. Special Leave Petition filed by the Respondents against the Judgment passed in OAs 195/90, 312/90, 313/90 & 314/90 was dismissed by the Supreme Court by its order dt.10-9-93. Though the applicants made representations seeking extension of the benefit given to the applicants in the above said OAs, their request was turned down by the Respondents on the ground that they were not parties to the OA 192/90. A copy of the reply received by the Applicant No.1 ~~xx/xx/~~ dt.21-2-94 is available at page-9 of the material papers filed by the applicant. It is aggrieved by the action of the Respondents in not stepping up pay of the

applicants extending the benefit of the judgment rendered by this Tribunal, the applicants have filed this application praying that the Respondents may be directed to step up their pay with effect from the date their juniors started drawing higher pay and to pay the applicants arrears resulting there from.

3. Though the Respondents have not filed any reply, it was argued that the applicants not being parties to the DAs 192/90, 95/90, 312/90, 313/90 & 314/90, they cannot seek extension of the benefit of the judgment in those cases. It was also argued that as the applicants did not hold the special pay post, they cannot claim the benefit of special pay which they never had occasion to draw.

4. Having heard counsel for both the parties and having perused the material on record, I find that the issue involved in this case is identical with the issue in DA 192/90, 95/90, 312/90, 313/90 & 314/90. Finding that it was inequitable not to grant ~~xxx~~ pay to a senior on par with his junior just was for the reason the senior/ promoted directly as Head Clerk without holding the Sr.Clerk post with special pay on account of a large number of vacancies in the post of Head Clerk ~~xxxx~~ arising on the date ~~xx~~ on which the applicants were promoted, the Tribunal directed in the aforesaid cases that the pay of the applicants concerned should be stepped up from the date ~~on~~ to which their juniors happened ~~draw~~ higher pay. It was also

directed that arrears pursuant to the above fixation should also paid. As the issue involved in both the cases is identical and as the S.L.P. filed against the judgment in OA 195/90 and the connected cases was dismissed by the Supreme Court, I find no reason to differ from the view taken by the Bench in the aforesaid cases and therefore as the matter is fully covered by the above said decision, this application is also disposed of on the same line. In the result, following the judgment in OA 192/90 and Batch of OAs 95/90, 312/90, 313/90 & 314/90, the application is allowed and the Respondents are directed to step up the pay of the applicants 1 to 3 on par with the pay of Sri E.Radhakrishna Nair, Sri K.Kameshwar Rao and Sri K.S.Ramachandra Murthy respectively with effect from the dates on which the aforesaid juniors started getting higher pay than the applicants as Head Clerks and to pay to the applicants arrears resulting from such re-fixation within a period of three months from the date of communication of this order. No order as to costs.

CERTIFIED TO BE TRUE COPY
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Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

21/12/94