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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1382/95

Date of Order: 7.8.96

BETWEEN :

S.K.Srivastava

.. Applicant.

AND

1. Chief Personnel Officer,
S.C.Rly., Rail Nilayam,
Secunderabad.

2. Union of India, rep. by the
Secretary, Railway Board,
Rail Bhavan, New Delhi.

3. Statistical & Analysis Officer,
Headquarters Office,
Statistical Branch,
S.C.Rly., Secunderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.G.V.Subba Rao

Counsel for the Respondents

.. Mr.K.Siva Reddy

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Heard Mr.G.V.Subba Rao, learned counsel for the applicant and Mr.K.Siva Reddy, learned standing counsel for the respondents.

2. The applicant in this OA was promoted to Head Clerk from the post of Senior Clerk w.e.f. 1.1.84. While he was working as Senior Clerk, he was not given the special pay of Rs.35/-: Probably he had not reached that stage to post him in the capacity of Senior Clerk to get him the special pay of Rs.35/-: But his juniors in their turn were posted in the post of

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Senior Clerk which carried the special pay of Rs.35/-.. In view of the grant of special pay, the juniors when promoted to Head Clerk were drawing more pay than the applicant in this OA due to their pay fixation in the post of Head Clerk taking into account the special pay of Rs.35/- drawn by them as Senior Clerk. The pay of the applicant was fixed as Head Clerk at the time of his promotion without taking into account Rs.35/- special pay as he was not drawing that special pay at the time of his promotion as Head Clerk.

3. The grievance of the applicant is that his pay should be stepped up on par with his junior in the post of Head Clerk or his pay as Head Clerk when he was promoted should be fixed notionally as if he was drawing Rs.35/- special pay. That was turned down by the impugned order No. ST/P/10/111 dated 18.10.95.

4. This OA is filed to step up his pay on par with his junior Sri B.K.Dhar, whose pay was fixed in the Head Clerk post taking into account Rs.35/- special pay drawn by him as Senior Clerk, from the date his pay was higher than that of the applicant and pay him the consequential arrears etc.

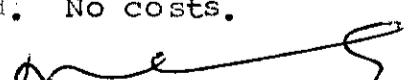
5. In OA.152/96 and batch, I have held that the applicants, though they were senior, did not perform the complex nature of work and hence are not eligible to get the special pay. Their pay fixation when promoted to the higher grade cannot be fixed granting them the notional special pay of Rs.35/-. The above views were expressed following the judgement of the Supreme Court reported in 1996 (1) SLR 773 (The Chief Income Tax Commissioner Bangalore Vs. Guru Raji and others). It was further held in the above said batch cases that the applicants in that batch OAs cannot claim stepping up of pay on par with their junior in view of the law laid down by the Appex Court in the reported case 1996 (32) ATC 131 (Gopal Krishna and other vs. Union of India).

6. In the Civid Appeal No. 25985/95, the Supreme Court had held that those who did not perform special duties of arduous nature, even though they may be seniors, would not be entitled to stepping up ^{on par} their pay with juniors who performed the said arduous duties. On that basis the appeal by the railways in similar case where the Tribunal's judgement of ~~and was allowed~~ allowing stepping up of pay was set aside ^{and was allowed} the appeal. The present case is similar and in view of the judgement in the SLP the applicant cannot get the relief prayed for.

7. The first contention of the applicant in this OA is that his case is different from that of the other OAs mentioned above. I do not find any difference in the prayer in this OA and other OAs.

8. The next contention of the applicant is that the applicant in this OA prays for the orders similar to in OAs. 235/95, 636/94, 1560/94 and 1603/94, wherein this Tribunal had allowed the OAs granting them relief similar to the one prayed for in this OA. As the appeals on the above referred OAs were dismissed by the Supreme Court, the applicant herein is entitled for the relief as prayed in this OA as the grounds in this OA for relief are same ~~as~~ that of the OAs referred to above. I do not see any force in this contention also. When a catena of decision has been given by the Appex Court including the latest one in SLP (C) No. 25985/95 rejecting the similar prayer, the Tribunal cannot give any direction otherthan the direction given recently. In view of the above I reject this contention also.

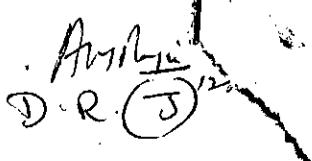
9. In the result, the OA is dismissed. No costs.


(R. RANGARAJAN)
Member (Admn.)

Dated: 7th August, 1996

(Dictated in Open Court)

sd


Amrit
D.R. (J)

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O.A.NO.1382/95

Copy to:

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South Central Railway,
Railnilayam, Secunderabad.
2. The Secretary, Railway Board,
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3. Statistical & Analysis Officer,
Head Quarters Office,
Statistical Branch,
South Central Railway,
Secunderabad.
4. One copy to Mr.G.V.Subba Rao, Advocate,
CAT, Hyderabad.
5. One copy to Mr.K.Siva Reddy, Advocate,
CAT, Hyderabad.
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YLKR

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 21/8/86

ORDER/JUDGEMENT
O.A. NO./R.A./C.P. No.

in

O.A. NO. 1382/85

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

YLR

II COURT

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केन्द्रीय प्रशासनिक विधिक राम
Central Administrative Tribunal
कंप्रेस/DESPATCH

22 AUG 1986 N.D.

हैदराबाद अधिकारी
HYDERABAD BENCH