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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.445/95

Date of Order : 17.4.96

BETWEEN:

1. P.L.Narasimham
2. P.Jyothi Bai
3. D.H.R.K.Sanyasi Setty .. Applicants.

A N D

Union of India rep. by:

1. Joint Director Establishment (N)
Railway Board, New Delhi.
2. General Manager,
Calcutta -43.
3. Divisional Railway Manager,
S.E.Rly., Visakhapatnam.
4. Chief Project Manager (S&C)
S.E.Rly., Visakhapatnam. .. Respondents.

- - -

Counsel for the Applicants .. Mr.Y.Subrahmanyam
Counsel for the Respondents .. Mr.V.Bhimanna

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CORAM:

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

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J U D G E M E N T

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

- - -

There are three applicants in this OA and they are working as Stenographers/Typists under the control of R3. It is stated that they have passed the IRPM examination in May 1991. A scheme of granting incentives for acquiring higher qualification was introduced by the Railway Board for the employees working in Stores and Personnel departments

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in terms of Railway Board letter No.E(NG)I/IC2/1 dated 14.2.90
Similar incentive scheme was available in other departments
in terms of Railway Board letter No.E(NG)64/RC1/25 dated 14.5.66
and 29.5.89. ~~Similar~~ ^{mi} incentive scheme was introduced to Stores
and Personnel Branch also as per their letter dated 14.2.90
to encourage the employees of this department ^k acquire higher
qualification which will be useful to them in their day-to-day
working.

2. The applicants after passing the IRPM examination
in May 1991 submitted a joint representation for granting them
the incentives as prescribed in the letter of Railway Board
dated 14.2.90. Though the Chief Personnel Officer of S.E.Rly.
gave instruction to R3 to grant them such incentives but that
was not implemented in view of the clarification given by the
Railway Board in terms of their letter No.E(NG)I/91/IC2/2 dated
10/12-7-91. The said letter reads as below:-

"Since acquiring of the higher professional
qualifications by Stenos and Typists of
Stores/Personnel Department will be useful
in day-to-day discharge of their duties only
on promotion as APO/ACOS, it has been decided
that they may be considered for incentives
only after they are promoted as ACOs or APO
within the ambit of the existing orders regar-
ding admissibility of such incentives to
Group-'B' Officers".

3. As per the above letter of the Railway Board, it
appears that the Stenographers/Typists, though they belong
to the Personnel Branch, are not entitled for incentives
as that acquired professional qualifications by them will
be useful to the Railway in the day-to-day discharge of
their duties only on their promotion as APO/ACOS. In view of
the above clarification given by the Railway Board the Railway
authorities informed the Divisional Personnel Officer not
to pay the incentives to Stenographers/Typists, even though
they belong to the Personnel Branch, in terms of letter dated

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10/12-7-91.

4. Aggrieved by the above they have filed this OA for setting aside the Railway Board's letter dated 10-12-7-91 (A-3 Page-12) and for a further direction to the respondents to grant two advance incentive increments to them who have acquired qualification in May 1991 prior to issue of the Railway Board's letter dated 10/12-7-91 quoted above.

5. Two main contentions were advanced by the learned counsel for the applicant for granting them incentive. They are:- (1) the Railway Board's letter giving the clarifications, that the incentive need not be granted to Stenographers/Typists till they are promoted as APO/ACOS is after they passed the examination in May 1991. Hence even if the Railway Board's letter dated 10/12-7-91 is treated as a clarificatory one this will be applicable to those Stenographers/Typists who acquired the IRPM qualification after the issue of the Board's letter dated 10/12-7-91. (2) The applicants are working as Stenographers/Typists in the personnel branch hence they are personnel branch staff. Some of the Clerks who are not performing the industrial relation duties such as Despatch Clerk are entitled for the payment of incentive if they acquire higher qualification. If so non-granting of the incentive to the applicant is discriminatory in nature.

6. The Railway Board issued the letter for grant of incentives to the personnel branch staff in terms of the Railway Board's letter dated 14.2.90. This is in continuation of the incentives granted to employees of other departments otherthan Personnel and Stores. The applicants herein belong to the personnel branch which is an admitted fact. Hence

they are governed by the instructions given by the Railway Board in terms of the Railway Board's letter dated 14.2.90. The Railway Board vide letter dated 10/12-7-91 gave further clarification stating that the Stenographers/Typists are not entitled for incentive till they are promoted as APO/ACOS even though they acquired the higher qualification in terms of the Railway Board's letter dated 14.2.90 while they are working as Stenographers/~~Typists~~. The contention of the applicants is that this clarificatory letter is an amendment to the earlier letter of 14.2.90. Hence such amendments can come into force prospectively only from the date of issue of the amendment. As the amendment was issued on 10/12-7-91 the amendment cannot take a retrospective effect. As the applicants in this OA have acquired qualification wayback in May 1991 earlier to the issue of the letter dated 10/12-7-91 they are entitled for the payment of incentives and the Railway Board's letter dated 10/12-7-91 should not debar ^{them} from getting the incentives.

7. The initial letter of the Railway Board granting incentives to the personnel branch staff is dated 14.2.90. This letter does not indicate anything about the payment of incentives to Stenographers/Typists. The letter of Railway Board dated 14.2.90 is only an executive order and it is not a statutory one. Hence the authorities concerned namely the Railway Board is competent to issue a clarification to that letter and such a clarification cannot be treated an amendment to the earlier letter. When the earlier letter dt 14.2.90 was ambiguous in regard to incentive to Stenographers/Typists of the personnel branch a clarification was sought from the zonal railway which was replied by the railway board in terms of their clarificatory letter dated 10/12-7-91. As

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per this letter the Stenographers/Typists of the Personnel branch are entitled for incentives when they become APO/ACO if they possessed the higher qualification. When a clarificatory letter is issued this letter has to be read as part and parcel of the initial letter and will take effect from the date of earlier instructions. Hence the clarificatory letter dated 10/12-7-91 is to be treated as continuation of the letter dated 14.2.90 and this clarification also comes into force from 14.2.90, that is the date of issue of the initial letter. Hence the first contention of the applicant that as they acquired qualification in May 1991 earlier to the issue of the clarificatory letter dated 10/12-7-91 they are entitled for the incentives cannot be sustained. Hence this contention is rejected.

8. The second contention of the applicant is that Clerks especially the Despatch Clerks are not doing the industrial relation work and if they get the incentives the Stenographers/Typists are also entitled for that. If the incentive is not extended to Stenographers/Typists when it is extended to Clerks such as Despatch Clerks it is a case of discrimination. In the OA there is no averment in regard to the fact that the clerical staff are not performing the duties pertaining to industrial relation machinery.

9. ~~However~~ the learned standing counsel submitted that the clerical cadre of the personnel branch is a combined one. A despatch clerk may be posted to other cell namely the industrial relation cell as a Junior Clerk in the same scale of pay as that of a Despatch Clerk and in that case he has to perform the duties allotted to industrial relation machinery. Further it was submitted by the learned counsel for the respondent that the clerk when promoted to higher grade such as Senior Clerk, Head Clerk etc., they have to perform duties including the sphere of industrial relation and hence there is no comparison between the Clerks and Stenographers in regard to the discharge

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standing counsel further submitted that the duties of Stenographers/Typists are well marked. As for Stenographers are concerned they have to take dictation and then to transcribe of. They have no independent duties even to connect the policy matters in regard to industrial relation rules/regulation of the have to get such rules/regulations only from the office learned as Typists are concerned they have to type the letter given to them. In view of the above the learned standing counsel submitted that the comparison between the two categories of staff eventhough both categories namely Clerks and Stenographers/Typists belong to personnel department is irrelevant.

10. The learned counsel for the applicant further contended that certain percentage of Stenographers/Typists can become Clerks in which case they are entitled for incentives due for their professional qualification. There is a point in the submission of the applicant's counsel. But they can claim the incentives only when they become Clerks against the quota earmarked to them. Till such time they come to the category of Clerks and they have no case for claiming incentives.

11. The submission of the learned standing counsel as indicated in para-9--- supra comparing the Clerks and Stenographers/Typists has force. I do agree that there can be no comparison in regard to the duty list attached to a Clerk and the duty list attached to Stenographers/Typists. In view of the above the second contention of the applicant also fails.

12. But the railway board themselves have said that if they acquire higher professional qualification while working as Stenographers/Typists they are entitled for incentives when they are promoted as APO/ACOS. The railway board have shown these orders when the applicants even if they acquire higher professional qualification while working as Stenographers/Typists when they are promoted.

~~Typists when they are promoted~~

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Typists when they are promoted as APO after passing the necessary selection examination.

13. In the result, the OA is dismissed subject to the condition that the applicants are entitled for incentives as given in the letter dated 14.2.90 and further clarified in terms of the letter dt 10/12-7-91. When they are promoted to the post of APO and are posted in that capacity.

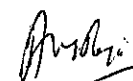
14. No costs.



(R.RANGARAJAN)
Member (Admn.)

Dated: 17th April, 1996

(Dictated in Open Court)


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Dy. Registrar (J)

Contd...

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O.A.NO.445/95

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1. Joint Director Establishment(N),
Railway Board, New Delhi.
2. The General Manager,
South Eastern Railway,
Garden Reach
Calcutta - 43.
3. Divisional Railway Manager,
South Eastern Railway,
Visakhapatnam.
4. Chief Project Manager, (S&C)
South Eastern Railway,
Visakhapatnam.
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CAT, Hyderabad.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 17-6-96

ORDER/JUDGEMENT

M.A.NO/R.A/C.A.No.

IN

B.A.NO. 445/95

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