

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Date of decision: 16th April, 2004

OA No. 512/2003

G.C.Gothwal s/o Shri Hanuman Sahai Gothwal, aged about 56 years r/o P.No.8, Shyam Nagar, Phulera, working as Supervisor, Office of the Railway Mail Service, Phulera.

.. Applicant

OA No.515/2003

R.S.Gupta s/o Shri Devi Ram, r/o C/o U.S.Sharma, Railway Colony, Sawaimadhopur, presently working as Sub-record Officer, Sawaimadhopur.

.. applicant

OA No.517/2003

Kanhiya Singh s/o Shri Mohan Singh, r/o 42, Govind Nagar West, Gupta Garden, Amer Road, Jaipur, working as S.A.(BCR) in the office of R.M.S.Jaipur-6.

.. applicant

OA No.518/2003

Radhey Shyam Gupta s/o Shri Kundan Lalji Gupta, r/o A-22, Tulsi Nagar, Shastri Nagar, Jaipur working as SA (BCR) HRO-RMS, JP Dn. Jaipur.

.. Applicant

OA No.519/2003

Janki Lal s/o Shri Toda Ramji r/o I-27, J.P.Colony, Sector No.3, Ram Nagar, Sastri Nagar, Jaipur, working as HSG-I in the office of the Railway Mail Service, Gandhi Nagar, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New

- Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
 3. Senior Supdt. Railway Mail Service, JP Dn. Jaipur.
 4. Head Record Officer, Railway Mail Service, JP Dn. Jaipur.

..Respondents

Mr.P.N.Jatti, counsel for the applicants

Mr. N.C.Goyal, counsel for respondents

CORAM:

HON'BLE MR. J.K.KAUSHIK, MEMBER (JUDICIAL)

HON'BLE MR. M.K.MISRA, MEMBER (ADMINISTRATIVE)

O R D E R (ORAL)

Applicants, named above, have filed their individual OAs u/s 19 of the Administrative Tribunals Act, 1985. The facts and circumstances and the question of law involved are similar in all these cases, thus they are being decided by this common order.

2. A question of seminal significance is involved in these cases which causes a sensation in the mind of the Court. The basic question involved in these cases is that when certain benefits have been extended to the employees i.e. litigants on the basis of a judgment of a Court of law and the same has attained finality, can the effect of the said judgment be nullified in pursuance with a subsequent judgment of the Supreme Court laying down a contrary principle of law.

3. As far as the factual aspect of these cases is concerned, the indubitable facts are

that all the applicants filed their individual OAs for stepping of their pay at par with one Shri M.P.Tyagi, who was junior to them in the same cadre and was getting more pay than the applicants. The OAs came to be allowed in their favour and they were allowed the benefit of stepping up of the pay at par with their next junior Shri M.P.Tyagi. Number of other similarly situated persons also enjoyed similar benefits. No Special Appeal was preferred against the judgment passed in the OA filed by the applicants. In some cases Review Applications were filed after the judgment in R.Swaminathan's case referred to in para 4 below, and the same came to be rejected.

4. Subsequently, the Supreme Court in the case of Union of India vs. R.Swaminathan, Civil Appeal No.8658/96, decided on 12.09.97, wherein their Lordship held that the pay of an employee can be stepped up only if junior and senior officials belong to the same cadre and the posts to which they had been promoted is in the same cadre, and the anomaly became due to direct application of FR 22 (C), which is now FR 22(I) (a) (i), and if the higher pay was received by the junior on account of local officiating promotion that does not entitle a senior to get his pay stepped up to make it at par with the pay of his junior. Thereafter, in pursuance of the judgment of the Supreme Court applicants were issued notice vide letter dated 6.9.99 and also

the order of their refixation and the recovery dated 11.9.2003 at Annexure A-1 in their respective OAs. These orders have been passed for making the recovery as well as refixing their pay by withdrawing the benefit of the stepping up of pay granted to them in pursuance with the judgments of this Bench of the Tribunal in cases filed by them. The cut of date for the recovery has been fixed as 12.9.97 i.e. the judgment of the Apex Court in R.Swaminathan's case (supra).

5. We have heard the learned counsel for the parties at a considerable length and have anxiously considered the pleadings and the records of these cases.

6. Incidentally, we have exhaustively dealt with an identical controversy in OA No. 467/2003, Basir Mohd. vs. Union of India and ors. and the decision has been pronounced today itself. The controversy involved in the instant case is squarely covered on all fours by the said judgment. The registry to place a copy of the same in the record of these files and the same shall be treated as part of the judgment. In this view of the matter, we find that there is no necessity of narrating the discussions afresh. We have absolutely no hesitation in following the same and decide these OAs on the similar lines; rather we have no choice except to follow the same.

7. In the result, we pass the order as under:-

The upshoot of the aforesaid discussion is that all the OAs have ample substance and merit acceptance. The same stand allowed. The impugned orders dated 11.09.2003 to the OA Nos. 512/2003, 515/2003, 517/2003, 518/2003 & 519/2003 are hereby quashed. The respondents are directed to refund the amount, if any, already recovered from the applicants in pursuance with the impugned orders. The applicants shall also be entitled to a cost, to be paid to them by the respondents, which is quantified as Rs. 2000 in each case. This order shall be complied with within a period of three months from the date of receipt of a copy of this order.

(M.K.MISRA)

Member (A)

(J.K.KAUSHIK)

Member (J)

The Registrar, Rajasthan, High Court, Jaipur has
sent a notice issued in Civil Writ Petition No. 5333/04
filed by Union of India & Ors against the order
dated 16.4.04 in OA No. 519/03 titled Sanki Lal
Va. U.O. & Ors passed by the
Bench comprising Hon'ble Mr. S.K. Kaushik (M) (J)
and Mr. M.K. Mishra (M) (A) Central Administr-
ative Tribunal, Jaipur Bench, Jaipur is a formal party.
No action is called for. May be filed. Submitted for
information/ orders, please. 3/24/04

Section Officer (Judl.) 24/9

Deputy Registrar

RE

80 (J)

23.9.04