

①

**Central Administrative Tribunal
Jabalpur Bench**

OA No.629/05

Jabalpur, this the 28th day of November 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

G.B.Minj

S/o Shri Subas Minj

Sr. Auditor

R/o H.No.3, Indus Pragya Parisar

B.D.A. Colony, Road Khajuri

Kalan, Bhopal.

And

10 others.

Applicants.

(By advocate Shri Deepak Panjwani)

Versus

1. Comptroller and Auditor General of India
New Delhi.

2. Dy.Director of Audit
P&T, Bhopal

3. Director General of Audit
P&T, Audit Office
Bhopal.

Respondents.

(By advocate Shri P.Shankaran)

ORDER

By A.K.Gaur, Judicial Member

The applicants are working as Senior Auditors in the office of Posts and Telegraph, Audit Office, Bhopal. They are claiming four advance increments between the period from 1.1.1973 to 1981 on account of their passing the departmental examination. According to the applicants, the benefit of advance increments was granted to similarly situated persons in the Railway Accounts Department in compliance of the order passed by the Apex Court upholding the decision of Calcutta Bench of this Tribunal in TA No.148 of 1988.

h

The applicants filed an earlier OA No. 166 of 2004 in this regard and made representations as per the directions of the Tribunal. However, the representations were rejected by the respondents stating that the scheme of advance increments, which was in force prior to 1973, was withdrawn upon the recommendations of the third Pay Commission.

2. Learned counsel for the applicants argued that the denial of benefit to the applicants who are similarly situated like the Accountants in the Railway Department, is arbitrary, discriminatory and unjust. The Third Pay Commission did not recommend discontinuance of the aforesaid scheme. He has argued that a vested right cannot be taken away by a retrospective amendment.

3. The respondents have refuted the allegation of the applicants and contended that none of the applicants was holding the post of UDC/Auditor prior to 1973 to become entitled to get the benefit of fixation of pay at higher stage after having passed the required departmental examination. Applicants 1, 5, 6 and 7 to 9 and 11 were directly appointed as UDC/Auditor between the period from 1973 to 1994 and applicants 2,3,4 & 10 were promotees from Clerk/Typist to UDC/Auditor during the period from 1978 to 1989. Therefore, none of the applicants were eligible to get the benefit of the policy existed prior to 1973. The respondents have further contended that there was no scheme for grant of 4 advance increments straightaway to any UDC after having passed the departmental examination, but it was only to fix the pay at a particular stage in the time scale of pay. This scheme was replaced subsequently on implementation of the revised pay scale based on the recommendation of 3rd Pay Commission and a new scheme of special pay of Rs.15/- was introduced and it was made applicable from 1.1.73. The special pay has now been revised to Rs.60/- per month and the applicants have been enjoying the benefit of special pay without any protest. It has been argued on behalf of the respondents that the case referred by the applicants is not similar to this case as the order passed by the Calcutta Bench of the Tribunal was implemented in the case of clerks in Railway Accounts Department only. No parity with the scheme of Railway Accounts

M


Department has been highlighted, which is governed by separate set of rules. According to the respondents, the OA is devoid of any merit and is liable to be dismissed.

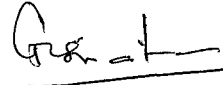
4. We have heard the learned counsel appearing on either side and perused the records.

5. We are of the firm view that the case of the applicants is covered by the Finance Ministry's OM dated 25.9.81, which they have accepted long ago and the position has been continuing for more than 20 years. Copy of the policy to this effect has been filed as Annexure R-2. Now at this stage, the applicants are estopped from claiming the benefit on the basis of a judgement in a dissimilar matter. We may also observe that as per Railway Board's letter dated 23.1.1996 in respect of Railway Accounts Department, the Appendix IIA examination is to be passed by Clerk Grade II (equivalent to LDC) for promotion as Clerk Grade I (equivalent to UDC). However, in the IA & AD, the departmental confirmatory examination was only for officials holding the post of UDC (now Auditor whether promoted or directly recruited). The Clerks Grade-II in the Railway Accounts Department were entitled to advance increments as per the judgement of Kolkata Bench of the Tribunal, which also deals with Clerks Grade II. As against this, no advance increments were admissible to LDC in IA & AD. However, in IA & AD, the pay of UDC/Auditors (both promoted from LDCs and Direct Recruits) was used to be raised to the stage of Rs.150/- after passing the departmental confirmatory examination and consequent grant of advance increments.

6. In view of the aforesaid discussion, the judgement cited on behalf of the applicant has no bearing in respect of Auditors in this case. Accordingly the OA is dismissed. No costs.

7. Copy of the memo of parties be supplied while issuing the certified copy of the order.


(A.K. Gaur)
Judicial Member
aa.


(Dr. G.C. Srivastava)
Vice Chairman