

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 535 of 2004

Jabalpur, this the 13th day of December, 2004

Hon'ble Shri Madan Mohan, Judicial Member

Brij Mohan Dubey, aged about 67 years,
S/o. Shri Dulichand Dubey, retired OSI Central
Railway, resident of 587, Shantinagar,
Jabalpur (MP),

and 14 others.

.... Applicants

(By Advocate – Shri L. S. Rajput)

V e r s u s

Union of India, represented by :

The Secretary,
Ministry of Railways, (Railway Board),
Rail Bhawan, New Delhi

and 3 others.

.... Respondents

(By Advocate – Shri M.N. Banerjee)

O R D E R (Oral)

By filing this Original Application the applicants have claimed the following main reliefs :

“(i) quash Government of India, Ministry of Personnel, PG and Pension, Department of Pension and Pensioner's Welfare Board's letter No. 45/86/997 P & PW(A) dated 18.2.03 circulated under Railway Board's letter No. F(E)-III/2000/PNI/57 dated 20.5.03 (Ann. A-1) being arbitrary, discriminatory and unlawful,

(ii) to call for the records/notes and correspondence pertaining to the issue for better appreciation of the issue involved,

(iii) to hold and declare the date of effect notified as 16.9.93 in Railway Board's letter dated 25.1.1993 Ann. A-3 and 1.4.95 in Railway Board's letter dated 8.8.95 Ann. A-4 as arbitrary illegal unconstitutional,



(iv) hold and declare the cut off dates as 16.9.93 and 1.4.95 Ann. A-3 and A-4 for the purpose of counting dearness allowance @ 20% and 97% after treating linking it to All India Consumer Price Index level of 729.91 as discriminatory in violation of Article 14 of the Constitution of India,


(v) ~~and the date of effect in Railway Board's letter 8.8.95 Ann. A-4~~ ^{the date of effect in Railway Board's letter 8.8.95 Ann. A-3} be quashed and set aside and further hold that such benefit may be granted to the applicant who retired between 1.1.1986 and 31.12.1995 on the basis of dearness admissible to them on the dates of their retirement. In other words applicants may be declared to be entitled to include dearness allowance in wages for the purpose of calculation of gratuity as has been held by the Railway Board in their letter dated 25.2.02 Ann. A-9(a),

(vi) interest @ 12% p.a. may be allowed by this Hon'ble Tribunal."

2. Heard the learned counsel for the parties.

3. The learned counsel for the respondents states that the Hon'ble Supreme Court in the case of State of Punjab & Ors. Vs. Amar Nath Goyal & Ors., in Civil Appeal No. 129 of 2003, vide order dated 27.7.2004 has ordered that the writ petitions pending before the Bombay High Court shall stand transferred to this Court. He further submitted that the matter involved in this OA and the matter involved before the Hon'ble Supreme Court in the aforesaid Civil Appeal are exactly similar. Hence, as now this matter is subjudice before the Hon'ble Supreme Court, the outcome of the said Civil Appeal shall be applicable to the present OA. He further argued that in a similar OA No. 550/2004 – Sh. N.N. Urmalia Vs. Union of India & Ors., the copy of the order dated 27.7.2004 passed in Civil Appeal No. 129/2003 has been filed. The learned counsel for the applicants accepted the aforesaid arguments advanced on behalf of the respondents.

4. Accordingly, in view of the submissions made above by the parties, the Original Application is disposed with a direction that the outcome of the said Civil Appeal No. 129/2003 shall be applicable in the present OA.



5. The Registry is directed to supply the copy of memo of parties to the concerned parties while issuing the certified copies of this order.

(Madan Mohan)
Judicial Member

"SA"

Issued
On 13-12-04
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पृष्ठांकन सं. ओ/ज्या..... जयलपुर, दि.....
चलितिका:
(1) सदिय, उवा... जयलपुर
(2) आवेदक श्री/श्रीमती/..... के काउंसल L.S. Report Adv. 188
(3) प्रत्यर्पी श्री/श्रीमती/..... के काउंसल M.V. Benarjee Adv. 188
(4) वायपाला, जे.प.ज. जयलपुर कायदेड
सूचना एवं आवश्यक कार्यवाही हेतु
15712 उपे रजिस्ट्रार (with copy of memo)