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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH, JABALPUR

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Date of Order : 25.07.2003

1. O.A. No. 433/2000
2. M.A. No. 810/2000  
(In OA No. 433/2000)

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M.A. Siddiqui aged about 37 years, S/o Latif Mohd. working as Senior Clerk Grade Rs. 4560-7000, Non Personal Branch, Divisional Office - Central Railway, Jabalpur R/o Girnar Apartment, North Civil Lines, Jabalpur.

..... Applicant.

Vs.

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. Divisional Railway Manager, Central Railway, Jabalpur.
3. Chief Personnel Officer, Central Railway, Mumbai CST.
4. Babu T.K. , Senior Clerk, Non Personnel Branch Divisional Office, Central Railway, Jabalpur, through Divisional Railway Manager, Central Railway, Jabalpur.

..... Respondents.

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CORAM :

Hon'ble Mr. J.K. Kaushik, Judicial Member  
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

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Mr. R.K. Gupta, counsel for the applicant.  
Mr. M.N. Banerjee, Advocate, for  
Mr. S.P. Sinha, counsel for the respondents.

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ORDER

(Per Mr. J.K. Kaushik, Judl. Member)

Shri M.A. Siddiqui, has filed this O.A. with the prayer that the respondents be directed to examine his case on merits as submitted in his Application and for his stepping-up from 18.6.1990 when the anomaly first occurred with that of the respondent No. 4 Shri T.K. Babu. It has been further prayed to step up the pay of the applicant on all subsequent occasions when fixed at a lower stage than the respondent No. 4.

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2. The facts involved in the case are at a very narrow compass. It has been averred that applicant was initially appointed to the post of Junior Clerk on 25.1.1983 and he enjoyed his further promotion as Senior Clerk w.e.f. 19.6.1990. On the other hand, one Shri T.K. Babu, who is respondent No. 4 in the O.A., came to be promoted to the post of Junior Clerk w.e.f. 28.1.1984. The said respondent was put to officiate as Junior Stenographer Grade Rs. 330-560 w.e.f. 22.2.1984 and continued to work on the post upto 1.2.1986. Thereafter, he was reverted to the post of Junior Clerk but, was again promoted to officiate as Senior Clerk w.e.f. 9.2.1987 to 11.3.1987 and he was put to officiate as such subsequently also. Finally, he was regularly appointed to the post of Senior Clerk w.e.f. 18/19.6.1990 from a date, the applicant was so appointed. On regular appointment applicant was fixed at Rs. 1200 whereas, the respondent No. 4 was fixed at Rs. 1290/- in the scale of 1200-2040. Thus, pay anomaly has arisen. The Application has been filed on multiple grounds which we shall deal in the later part of this order.

3. A Misc. Application for condonation of delay in filing the O.A., has also been filed by the applicant.

4. The Official respondents have filed their reply taking a preliminary objection regarding limitation and submitted that repeated representations do not give any life to the time barred applications. It has been submitted that Shri T.K. Babu had to be put on officiating basis on ad hoc basis vice Smt. Reshma Shaheen, who remained sick during the said period. Further, he was put to officiate vice Smt. Reshma Shaheen (Senior Clerk) who was on sanctioned leave. On his regular promotion Shri Babu has got the benefit of officiating period and it is the reason he was fixed at Rs. 1290/- w.e.f. 1.10.1990 and onwards. ~~Applicant~~

*[Signature]*

The applicant cannot claim any stepping up of his pay while his junior has officiated in the higher post and in such cases stepping up of the pay will not be admissible under the rules. The grounds raised in the O.A. are not tenable.

5. A Rejoinder to the reply has also been filed in the matter.

6. We have heard the learned counsel for the parties at considerable length and have given our anxious consideration to the pleadings and the records of the case.

7. The learned counsel for applicant has reiterated the facts and grounds mentioned in the O.A. and has vehemently submitted that Shri Babu was put to officiate for quite long period of about two and a half years and as per the rules in force one could be put to officiate only for a period of three months and one can be continued beyond period of three months with the permission of the Chief Personnel Officer, but, no such action has been taken in the present case. Shri Gupta, has also placed heavy reliance on a judgement of Cuttack Bench of this Tribunal in Sushila and Ors. Vs. UOI & Ors. (ATC 1988 (8) 213) a copy of which is annexed at Page 47 of the Paper Book, wherein, similar benefit has been allowed. He has also submitted that there was no fault on the part of applicant inasmuch as he never refused to work on ad hoc basis and the respondents deliberately did not promote him on such basis and have extended a special favour to Shri Babu, respondent No. 4.

On the other hand, learned counsel for respondents Shri Banerjee, has reiterated his pleadings and have submitted that on the basis of ad hoc working, no stepping up of pay is allowed. He has also contended that in view of

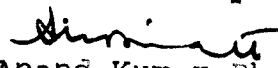
the judgement in U.O.I. and Ors. Vs. R. Swaminathan (AIR 1997 (SC) 3554 ), the applicant cannot get any benefit of stepping up in the instant case. The learned counsel for respondents has also stressed the ground of limitation and has submitted that the O.A. is hopelessly time barred.

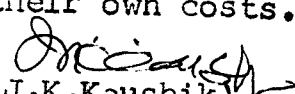
8. We have considered the rival contentions and the submissions raised on behalf of both the parties.

9. There are primarily two issues involved in the case in hand, one is regarding limitation and the another is, as to whether one can claim stepping up of pay on the basis of the pay of his next junior who has got higher fixation due to working on ad hoc officiation while both enjoyed the promotion to the post of Senior Clerk from a same date. The same controversy had come up before this Bench in the case of O.P. Rathore and S. Kannan Vs. UOI and Ors. (O.As No. 6 and 7 of 1999 decided on 25.4.2003) where one of us (J.K. Kaushik) was also a party and the said decision squarely covers the controversy involved in this case at all fours and the issue does not remain res - integra. M.A. for condonation of delay stands allowed.

10. We have absolutely no hesitation in applying the aforesaid decision of 25.4.2003 since the same was based on the decision in R. Swaminathan's (supra) case wherein a similar issue has been settled by the highest Court of this country. Thus, we find <sup>ourselves</sup> unable to subscribe with the views of Shri Gupta, learned counsel for applicant. Hence, no case can be said to have been made out and no interference is called for from this Tribunal in the matter.

11. The result is rather unfortunate but, we have no option except to dismiss this O.A. and we do so accordingly. However, the parties are directed to bear their own costs.

  
(Anand Kumar Bhatt)  
Administrative Member

  
(J.K. Kaushik)  
Judicial Member