

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 721 of 1998

Jabalpur, this the 12<sup>th</sup> day of September, 2003.

Hon'ble Shri D.C.Verma-Vice Chairman(Judicial)  
Hon'ble Shri Anand Kumar Bhatt-Administrative Member

1. A.E. Damerum S/o Late C.A Damerum  
O.S. II, O/O D.R.M.  
S.E. Railway Bilaspur.
2. V. Gunnion S/o Stanley Gunnion  
O.S. Gr.II, S.E. Railway,  
Bilaspur.
3. S.R. Yadav S/O Shri B.Ram Yadav  
O.S. Gr. II, S.E. Railway,  
Bilaspur.
4. A.K. Bhattacharyaji S/o Shri A.K.  
Bhattacharji Head Clerk, S.E. Railway  
Bilaspur.
5. S.S. Mishra S/o Shri Baldeo Prasad Mishra  
Head Clerk, S.E. Railway  
Bilaspur.
6. O. Franshaw S/o Shri G. Granshaw  
Head Clerk, W.S.E. Railway  
Bilaspur.

APPLICANTS

(By Advocate - Smt. J. Choudhary)

VERSUS

1. Union of India  
through General Manager  
South Eastern Railway,  
Calcutta.
2. Divisional Railway Manager (P)  
South Eastern Tailway, Bilaspur

RESPONDENTS

(By Advocate - Shri M.N. Banerjee standing counsel)

O R D E R

By D.C. Verma, Vice Chairman (Judicial) -

By this Original Application the applicants have claimed special pay with effect from the date they became Senior Clerks along with other consequential benefits.

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2. The brief facts of the case is that the six applicants of the present OA have been serving the Railway-department and became Senior Clerks in the year 1982. As per the Railway Board's order 10% of the posts on seniority-cum-suitability basis were to be given special pay of Rs.35/-per month to the Upper Division Clerks (for short 'UDCs') of non-secretariat administrative offices. The grievance of the applicants is that though they were promoted to the post of Head Clerk, junior to the applicants were granted special pay of Rs.35/- which was subsequently raised to Rs.70/-, the applicants have been denied such benefits.

3. The respondents' case is that 10% posts of the Senior Clerks were provided with a special pay of Rs.35/- for attending to work of more complex and important nature. In the ~~mechanical~~ department in which the applicants have been working, ~~only~~ posts were pin-pointed for grant of the special pay. The applicants never came to occupy such posts. Hence they are not entitled to the same. Further submission of the respondents is that the applicants have been claiming special pay with effect from 1982 and such claim is barred by limitation as the present OA has been preferred in the year 1998 only.

4. Counsel for the parties have been heard at length and pleadings have been perused.

5. The Railway Board's circular produced shows that only 10% of the posts on seniority-cum-suitability basis were identified for grant of special pay of Rs.35/-. It was also provided that before posting the person against 10% post it should be ensured that senior persons

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are not ignored and in case somebody who is senior enough is not willing to <sup>be</sup> <sup>ed</sup> consider for these posts or he is not considered suitable for the same, he should be clearly told that he will have no claim for higher fixation of pay subsequently when he is selected for higher grade. To provide benefit of 10% of such posts the same were identified in different sections. In the section in which the applicants have been working they never came to occupy the pin-pointed post and got promotion to the post of Head Clerk. Consequently, the benefit of the special pay of Rs.35/- was never available to the applicant. The respondents in their reply have clearly stated that there were many seniors to the applicants who could not be awarded the special pay as they never occupied the identified posts.

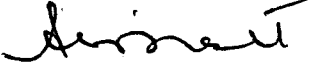
6. The learned counsel for the applicant has referred to Annexure-A-7 dated 5.9.1997 issued by the CPO to respondent no.2 to provide a special pay of Rs.70/- to those who have been deprived of the same due to administrative lapse. The learned counsel submitted that in pursuance to this the applicant should have been granted the special pay as they were deprived of the benefit of special pay.

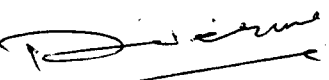
7. We have gone through the contents of Annexure-A-7 but we are unable to agree to the interpretation given by the learned counsel of the applicants. Annexure-A-7 is in respect of 'senior most' who were denied special pay due to administrative lapse. It was also pointed out therein that though the pin pointed posts were vacant still the senior most senior clerks were deprived of the benefit of special pay. It is not shown in the present OA that any of the applicants ever given to occupy or become eligible to hold the pin-pointed

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posts. The contents of Annexure-A-7 ~~are~~ not shown to be in respect of the present applicants. Consequently, none of the present applicants are entitled to benefit of special pay. It may also be mentioned here that Annexure-A-7 was issued in September, 1997 whereas the applicants nos. 2 and 5 as per the reply retired from railway service with effect from 30.4.1993 and 31.10.95. The applicants nos. 1 and 3 have been working on the post of Superintendent Grade-II and applicants nos. 4 and 6 on the post of Head Clerk. Thus, none of the applicants are covered by Annexure-A-7 dated 5.9.1997. In case the submission of the learned counsel of the applicants that the applicants be granted special pay with effect from 1982- the year they were promoted as Senior Clerk, is accepted, then in that case the very purpose of granting special pay to 10% of the post only would get frustrated and it would be in violation of the Railway Board's circular. The Railway Board's circular has not provided for grant of special pay to all those who were promoted to the post of Senior Clerks but has limited the same to 10% posts only which were ~~to be~~ identified.

8. In view of the discussion made above, as there is nothing on record to show that the applicants ever occupied the 10% identified posts, they are not entitled to the special pay. The OA has no merit and is dismissed. Costs easy.

  
(Anand Kumar Bhatt)  
Administrative Member

  
(D.C. Verma)  
Vice Chairman (Judicial)