

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15717 of 2016

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1. The Union of India through the Chairman, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi
 2. The Secretary, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi
 3. The Financial Commissioner, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi
 4. The General Manager, East Central Railway, Hajipur
 5. The General Manager (Personnel), East Central Railway, Hajipur
 6. The Financial Advisor & Chief Accounts officer, East Central Railway, Hajipur

.... Petitioners

Versus

1. Manoj Kumar Son of Sri Kamal Kishore Prasad, PS - II, under Chief Engineer (Con), South, East Central Railway, Mahendrughat, Patna 800001 and others null
2. Aman Kumar Son of Late Akhauri Suresh Prasad PS - II, Deputy Chief Engineer (Con), South, East Central Railway, Mahendrughat, Patna 4 null
3. Ravi Ranjan Son of Nareshwar Prasad, PS - II, under Chief Engineer (Con), South, East Central Railway, Mahendrughat, Patna 4
4. Rajiv Ranjan Triyar Son of K.K. Triyar P.S. II under COS, East Central Railway, Hajipur
5. Harendra Kumar Son of Sri Vishundeo Singh, P.S. II, Under SR DFM, East Central Railway, Sonpur
6. Biresh Kumar Singh Son of Sri Vishundeo Singh, PS II, under FA & CAO, East Central Railway, Hajipur
7. Srish Son of Sri R.K. Prasad Gupta PS II, under FA & CAO, East Central Railway, Hajipur null
8. Dhananjay Kumar Son of Sri Yogendra Sharma, PS II, under FA & CAO, East Central Railway, Hajipur
9. Uday Shankar Sah Son of Sri Shiv Narayan Sah, PS II, under FA & CAO, East Central Railway, Jahipur
10. Ajay Kumar Pandey Son of Bharat Pandey, PS II, under FA & SDMG, East Central Railway, Hajipur
11. Ajay Kumar Singh Son of Late Ram Jiwan Singh, PS II, under COS, East Central Railway, Hajipur
12. Sanjay Kumar Son of Late Baleshwar Singh, PS II, under CEE, East Central Railway, Hajipur
13. Niranjana Kumar Son of T.N. Prasad Singh, PS II, under CCM, East Central Railway, Hajipur
14. Harendra Harijan Son of Ramyatan Harijan PS II, under CCM, East Central Railway, Hajipur
15. Abdhesh Thakur Son of Late Phuldeo Thakur, PS II, under CSTE, East Central Railway, Hajipur
16. Sanjit Kumar Singh Son of Late C.D. Singh, PS II, under Secy. To GM, East Central Railway, Hajipur
17. Uttam Kumar Son of Ganauri Lal, PS II, under Secy. To G.M., East Central Railway, Hajipur
18. Binoy Kumar Son of Late Nepali Sah, PS II, under Secy. To G.M., East Central



- Railway, Hajipur
19. Chandan Kumar Son of Tulsi Ram, PS II, under Secy (Confidential), East Central Railway, Hajipur
 20. Radhey Shyam Prasad Son of Late Chandeshwar Prasad, PS - II, under COM, East Central Railway, Hajipur
 21. Firoz Ansari Son of Karim Ansari PS - II, under CPO, East Central Railway, Hajipur
 22. Jeetendra Kumar Ram Son of Muneshwar Ram, PS - II, under CPO, East Central Railway, Hajipur
 23. Anoop Prasad Gupta Son of Late Ramesh Chandra, PS - II, under CSC, East Central Railway, Hajipur
 24. Manoj Ram Son of Late Fakira Ram, PS - II, under CSTE, East Central Railway, Hajipur
 25. Subhash Kumar Son of Suri N. Kumar PS - II, under CSTE, East Central Railway, Hajipur
 26. Ramanuj Das Son of Sitaram Ravidas, PS - II, under PCE, East Central Railway, Hajipur
 27. Dilip Kumar Son of Late Shivnath Noniya, PS - II, under CCM, East Central Railway, Hajipur
 28. Sidheshwar Choudhary Son of Baiju Choudhary PS - II, under COM, East Central Railway, Hajipur
 29. Praamod Kumar Son of Late B. Mahto, PS - II, under CMD, East Central Railway, Hajipur
 30. Yogeshwar Mahli Son of M. Mahli, PS - II, under SDGM, East Central Railway, Hajipur
 31. Navin Kumar Son of N.K.P. Gupta, PS - II, under PCE, East Central Railway, Hajipur
 32. Rajesh Prasad Son of N.K. Prasad, PS - II, under CEE, East Central Railway, Hajipur
 33. Raj Kumar, J Das Son of Late Jageshwar Das, PS - II, under CME, East Central Railway, Hajipur
 34. Sanjay Kumar Lal Son of Hakim Ram, PS - II, under CSO, East Central Railway, Hajipur
 35. Shiv Shankar Lal Son of U.N. Lal Das, PS - II, under Sr. DCM, East Central Railway, Hajipur
 36. Bhagwan Paswan Son of Sahdeo Paswan PS - II, under Sr. DSO, East Central Railway, Hajipur
 37. Niraj Kumar Son of Gauri Shankar Prasad Singh, PS - II, under Chairman, RRB, , East Central Railway, Muzaffarpur
 38. Ranjan Kumar Singh Son of Late Kapil Deo Narayan Srivastava, PS - II, under SPO/Const., East Central Railway, Hajipur
 39. Rajen Kumar Sharma Son of Late S.N. Sharma, PS II, under Sr. DFM, East Central Railway, Hajipur
 40. Rajesh Kumar Son of Krishna Prasad, PS - II, under DGM/Law, East Central Railway, Hajipur
 41. Ajit Kumar Son of Late Ramji Prasad, PS - II, under DGM/Law, East Central Railway, Hajipur null
 42. Md. Faroque Rashid Son of Late Md. Saud, PS - II, under CE/C/Central, East Central Railway, Patna null
 43. Md. Mojibur Rahman Son of Md. B. Joha, PS - II, under Dy. CE/C/South, East Central Railway, Hajipur null
 44. Vijay Kumar Choudhary Son of Late Rajendra Chaoudhary, PS - II, under Dy.



- CE/Con/South, East Central Railway, Hajipur
45. Manoj Kumar Choudhary Son of Late G. Mishra, PS - II, under CAO/Con/South, East Central Railway, Patna
46. Manish Raj Son of Sri Deo Prakash, PS - II, under CE/Con/SE, East Central Railway, Patna
47. Umesh Kumar Son of Radhey Podda, PS - II, under FA&CAO/Con, East Central Railway, Patna
48. Kaushal Kumar Son of Nar Singh Mahto, PS - II, under FA&CAO/Con, East Central Railway, Patna
49. Sanjay Kumar Son of Jagdish Ram, PS - II, under FA&CAO/WP&TA, East Central Railway, Patna
50. Khurshid Anwar Son of Late Md. Nasiruddin, PS - II, under CAO/C/GELF, East Central Railway, Patna
51. Suman Kumar Thakur Son of Late Sudist Narayan Thakur, PS - II, under DRM//Danapur, East Central Railway, Danapur
52. C.K. Goshami Son of Late B.N. Goshami, PS - II, under Sr. DEN/Danapur, East Central Railway, Danapur
53. B.B. Sharma Son of Late D.N. Sharma, PS - II, under ADRM/Danapur, East Central Railway, Danapur
54. S.N. Sinha Son of Late Seo Mangal Lal, PS - II, under DEN/Con/Danapur, East Central Railway, Danapur
55. Ratneshwar Prasad Karn Son of Late L.D. Prasad, PS - II, under MD /CH/, East Central Railway, Patna
56. Arun Jha Son of Late Sidhhi Nath Jha, PS - II, under Medical Director/ CH, , East Central Railway, Patna
57. Ravi Narayan Pandey Son of Janardhan Pandey PS - II, under CE/Con/DNR, East Central Railway, Danapur
58. Sanjay Kumar Sharma Son of N.N. Bhushan PS - II, under Dy. CE/Con/G, East Central Railway, Patna
59. Pramod Lakra Son of Late Rajkishre Lakra, PS - II, under CSTE/Con/N, , East Central Railway, Patna
60. Rajiv Kumar Son of Ashok Kumar, PS - II, under Dy. CE/Con/GB - 1,, East Central Railway, Patna
61. Mauje Lal Ram Son of Late Sanful Ram, PS - II, under CSC/RPF, East Central Railway, Hajipur
62. Kalyan Kumar Dey Son of Late L.B. Dey, PS - II, under CME - East Central Railway, Hajipur
63. Janardhan Prasad Singh Son of Late Shyam Sundar Singh, PS - II, under CSTE/T&P, East Central Railway, Hajipur
64. Pravin Kumar Singh Son of Late M.N. Singh, PS - II, under Dy.GM (G), East Central Railway, Hajipur
65. Yadunath Prasad Son of Late Satya Rai, PS - II, under Secy. To CAO/C/N, East Central Railway, Patna
66. Bikash Kumar Singh Son of Late C.D. Singh, PS II, under CAO/C/N/, East Central Railway, Patna
67. Akhilesh Prasad Son of Late Mathura Prasad, PS - II, under CPO/Admn., East Central Railway, Hajipur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Advocate



For the Respondent/s : Mr. Shekhar Singh, Advocate
Mr. M.P. Dixit, Advocate
Mr. S.K. Dixit, Advocate
Mr. Sanjay Kr. Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 21-03-2017

Railway authorities have decided to file the present writ application challenging the decision rendered by the Central Administrative Tribunal, Patna Bench, Patna in OA 326/2014. The impugned order is dated 8th of March, 2016 wherein a direction has been issued after allowing the OA that the respondent should extend the similar benefit to the applicants in conformity with the order and judgment passed by the Central Administrative Tribunal, Madras Bench, whose order has been affirmed by the High Court of Madras as well as the Hon'ble Apex Court. The review application being RA 94/2016 seeking review of the said order dated 08.03.2016, passed in OA 326/2014 has also been dismissed by the Tribunal by order dated 24th May, 2016.

The relief, which was prayed for in the OA by the 67 applicants, who are private respondents in the present writ applicant, was as follows :

“8.1 That Your Lordships may graciously be pleased to direct/command the respondents to extend the same and similar benefit of the



judgments/orders dated 05.06.2012, 08.03.2013, 08.08.2013, 28.01.2014 [Annexure-A/1] to A/4 passed by Hon'ble Central Administrative Tribunal, Madras Bench upheld up to Hon'ble Supreme court of India including Principal Bench, New Delhi whereunder the respondents have been directed to fix and grant the Grade Pay of Rs. 4800/- initially and Rs. 5400/- on completion of 04 four years of regular service in the cadre of Private Secretary Grade-II with Gazetted Status with effect from 01.01.2006 or from the date of appointment/ promotion in the cadre of PS-II along with all consequential benefits.

8.2 That the respondents further be commanded to grant all consequential benefits including arrears, revision of pay etc. and interest thereon."

Learned Senior Counsel representing the Railways submits that both the relief prayed for and the order passed by the Central Administrative Tribunal, Patna Bench Patna is erroneous because they lost sight of the basic fact that there are two different status and service conditions of Stenographers, who are working in the Central Secretariat Service or the Railway Board and Stenographers who are working in subordinate or field offices or organization. Having two sets of pay-scale, therefore, is neither irrational nor arbitrary.



From a reading of the order of CAT Bench, Patna it seems that similar argument was also made before the CAT Bench, Madras and the same was answered in emphatic terms in favour of the applicants therein. CAT Bench has extracted the relevant portion of the Tribunal's observation and adjudication in paragraph 4 of the order impugned, which is extracted hereinbelow :

“4. Before delving into the contentious issues, and on going through the judgment dated 05.06.2012, passed by CAT, Madras Bench in OA 658/2010 [Annexure-A/1], it may be noted that same set of argument was advanced on behalf of the Railway Board and on adjudication, the Tribunal has been pleased to observe as follows :

“The respondents have entered appearance and stated and filed reply statement. It has been stated by the respondents that in OA No. 164/2009 the issue was the applicability of revised pay structure granted by Government to Section Officers of Central Secretariat Service and Private Secretaries of Central Secretariat Stenographers service, to the Section Officers/Private Secretaries of the Central Administrative Tribunal, whereas in the present OA the Private Secretaries of Railways cannot be equated with the Private Secretaries working with the Central Secretariat. It has also been further stated that there is no historical parity between the Private Secretaries



working in the other departments of the Government and the Private Secretaries working in the Railways. Therefore, the applicants are not similarly situated persons and the benefit of order of the Principal Bench in OA 164/2009 cannot be extended to the applicant.

5. We have heard both sides and perused the records. It is an admitted fact that the applicants herein, who are Railway employees are all covered by the recommendations of the 6th Central pay Commission. Their pay structure is governed by the Pay recommendation of the Pay Commission appointed by the Government of India from time to time. The Railways have historically followed the Pay Commission's recommendation of the Central Government. Therefore, since the Principal bench has already held in OA 164/2009 that the relief claimed by the applicant is admissible, we find no reason as to why the same cannot be extended to the applicant herein. It is not the case of the respondents that the recommendation of the Sixth CPC is not applicable to the applicants in this OA.

6. The respondents have taken the stand that the Recruitment Rules for the Private Secretaries in the Railways and Private Secretaries in the other Departments of the Government of India are different. However, they have not produced any Recruitment Rules to prove that the applicants



herein are recruited by separate Recruitment Rules with different standards of academic professional qualification etc.

7. *From all this it can be said that there is no statutory rule which differentiates the applicants herein from that of the Private Secretaries in the Central Secretariat or the Central Administrative Tribunal. Under such circumstances, we are of the opinion that the respondents have not made out a convincing case to deny the benefit of OA 164/2009 to the applicants before us.*

8. *For the aforesaid reasons, we are of the opinion that impugned order cannot be sustained and the same is set aside. The respondents are directed to grant the Grade Pay of Rs. 4800/- initially and Rs. 5400/- on completion of 4 years regular service in the cadre of Private Secretaries Grade-II with Gazette Status with effect from 01.01.2006 as claimed in the OA.”*

It is also of relevance that the Tribunal did not see the distinction between the nature of service being rendered by the claimants therein and the notification which was issued on the basis of the recommendation of the 6th Pay Revision Commission. The order was in favour of the applicants before the CAT Bench, Madras, which got tested by the Railways by filing a writ application before Madras High Court. The order of CAT Bench,



Madras was affirmed and the SLP filed thereafter has been dismissed by the Hon'ble Supreme Court.

It is well settled that there has to be consistency in judicial adjudication and similarly situated persons must be extended the similar or identical benefit. The decision in this regard has also been taken note of by the Central Administrative Tribunal, Patna Bench, Patna, which is the *State of Karnataka Vs. L. Lalita (2006) 2 SCC 745* and *Maharaj Krishan Bhatt and Anr. Vs. State of Jammu & Kashmir and others (2008) 2 SCC (L&S) 783*.

Keeping the above in mind, since the present private respondents, who were applicants before the CAT Bench, are all identically situated as the set of applicants before the CAT Bench, Madras and the said decision has been upheld till the Hon'ble Apex Court, discrimination cannot be allowed to be practiced in matter of extending the benefit of a pay-scale to such employees.

The Central Administrative Tribunal, Patna Bench, Patna, therefore, has correctly relied on the decision of Madras Bench of CAT as well as the Madras High Court and directed that the benefit of pay-scale should be extended in same terms to the present private respondents as well.

No interference, therefore, is warranted with the



decision of the Tribunal dated 8th of March, 2016 because there has to be consistency in adjudication by Courts of law and this is what has been achieved by allowing relief to the private respondents by the Tribunal.

In view of the above, dismissal of review application i.e. RA 94/2016 on 24th of May, 2016, which is also under challenge in the present writ application, need not be required to be interfered with.

None of the impugned orders are required to be interfered with. Writ has no merit. It is, therefore, dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24.03.2017
Transmission Date	NA

