

Union of India and Others

Vs

Shanti Swarup and Others

and

Baldev Krishan and Others

Vs

Union of India and Others

Civil Appeals Nos. 1971-1980 of 1969 and Writ Petition No. 653 of 1970

(R. S. Sarkaria, O. Chinnappa Reddy JJ)

05.02.1979

JUDGMENT

CHINNAPPA REDDY, J. –

1. The question in these appeals and the writ petition turn on the interpretation of paragraph 157 of the Indian Railway Establishment Code, Volume I. The case of the respondents in these appeals was that although revised pay rules of 1947 were made applicable to all Number Takers in the service of the Railway Administration, the Number Takers employed in the Delhi Division of the North Western Railway alone were not given the benefit of the revised pay scales. They clamoured for the revision of their pay scales and for recognition of their due seniority. By an order made on 1st November, 1961, the Railway Board with the sanction of the President accepted their claim and gave them the scale of pay and the seniority to which they were entitled. Subsequently the Railway Board by an order dated 12th July, 1962 cancelled the earlier order in regard to seniority. The respondents questioned the order dated 12th July, 1962. One of the grounds was that paragraph 157 of the Indian Railway Establishment Code under which the Railway Board claimed to have passed the order did not authorise the making of the order in question. Other grounds also were raised. The writ petition filed by the respondents in the High Court of Delhi was accepted. The Union of India has preferred this appeal. We do not think it is necessary to refer to the various grounds on which the High Court quashed the order dated 12th July, 1962 of the Railway Board. The decision of the High Court can be sustained interpretation of paragraph 157 which in as follows :

The Railway Board have full powers to make rules of general application to non-gazetted railway servants under their control.

Clearly under this paragraph, the Railway Board is empowered to make rules of general application and not rules applicable to individual cases or sections of the same class or category of Railway servants. The Railway Board could make a rule applicable to all Number Takers in the employment of the Railway Administration but it could not pick out the Number Takers of particular Division and make separate rules for them. That is what has been done in the present case. The order of 12th

July, 1962, has been made applicable to Number Takers of the Delhi Division of the North Western Railway only. That cannot be done. The appeals are, therefore, dismissed with costs. No separate arguments were advanced in Writ Petition No. 653 of 1970 which is accordingly dismissed.

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