

**SUPREME COURT OF INDIA**

G.M. South Eastern Railway

Vs.

Benulal Mukherjee

C.A.No.77 of 2013

(Surinder Singh Nijjar and Sudhansu Jyoti Mukhopadhaya JJ.)

04.01.2013

**ORDER**

1. Leave granted.

2. Learned Additional Solicitor General appearing on behalf of the appellants submits that this matter is squarely covered by the judgment of this Court in Union of India Vs. Arun Jyoti Kundu and Ors. (2007) 7 SCC 472. In the present case, the Calcutta High Court vide its judgment dated 4.3.2003 passed in WPCT No.1325 of 2002, has dismissed the writ petition filed by the appellant. Relying upon the aforementioned judgment of the High Court rendered in WPCT No.1325 of 2002, the judgment of the Tribunal dated 7.1.2003 passed in O.A No.1419 of 1997 has been affirmed.

3. This Court by its judgment in the case of Union of India Vs. Arun Jyoti Kundu and Ors. (supra), has set aside the judgment of the High Court and that of the Central Administrative Tribunal and dismissed the O.A. filed before the Central Administrative Tribunal. In paragraph 19 of the judgment this Court has held as under: “19. We are afraid that the tribunal has exceeded its jurisdiction in issuing the direction, it has issued. The fact that notwithstanding the Fifth Pay Commission not recommending, particularly, the payment of higher scale to two sets of typists, typists in English language and typists in Hindi language, the Government chose to give them relief with effect from 31.1.2000 would not justify an inference of discrimination or a finding that the authority has acted arbitrarily or unreasonably. As this Court has clarified in the decisions adverted to, it is for the Government to act on the report of the Pay Commission or either to accept or not to accept its recommendation. Once the recommendations of the pay commission are accepted,

in full, it could also give effect to it from the date recommended in that behalf. But when admittedly no provision was made in respect of the English and Hindi typists and they pointed to the anomalies and the Government on the basis of the recommendation of the Anomalies Committees decided to give them the scale with effect from 31.1.2000, it could not be held to be discriminatory or to be beyond the power of the Government.

4. Ultimately, this Court held that the Central Administrative Tribunal exceeded its jurisdiction in issuing the directions, it has issued and the High Court was in error in not setting them aside and accordingly, the original applications filed before the Central Administrative Tribunal were dismissed.

5. In view of the aforesaid observations of this Court, this appeal has to be allowed. Accordingly, the appeal is allowed and the impugned order passed by the High Court in W.P.C.T. No.625/2003 on 9th September, 2003 is set aside. No costs.