

**Central Administrative Tribunal
Madras Bench**

OA/310/00683/2014

Dated the 19th day of December Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

D.S.M.Agastas Babu,
Station Master, Gr I,
Guduvancheri,
Chennai Division,
Southern Railway. .. Applicant
By Advocate **M/s.Ratio Legis**

Vs.

1. Union of India, rep by
The General Manager,
Southern Railway,
Park Town, Chennai-3.
2. The Senior Divisional Personnel Officer,
Guntakkal Division,
South Central Railway,
Guntakkal.
3. The Senior Divisional Personnel Officer,
Chennai Division, Southern Railway,
NGO Annexe, Park Town,
Chennai 600 003. .. Respondents

By Advocate **Ms.R.Sathyabama**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

1. The brief facts of the case as stated by the applicant is as follows:-

The applicant in this case had worked as Station Master (SM) in the scale of pay Rs.5000-8000 in Lingeri and Gooty Railway Stations in Guntakkal Division in South Central Railway. According to the applicant, while he was working as Assistant Station Master in the scale of pay of Rs.1400-2300 in 1994 he was transferred to Lingeri Railway Station and he was doing duty in the said station as Station Master-in-charge of the station where the scale of pay is Rs.2000-3200. Since the applicant was the senior most there, he was asked to do the work and officiate as Station Master-in-charge and discharge the duties of that post from 01.4.1994 till 02.2.1995. Thereafter, the scale of the SM, Lingeri was downgraded to the scale Rs.1600-2660. Thereafter, also he continued to officiate in the said post till 29.7.02. According to him, he had worked in Lingeri as officiating SM and he had performed the duties of the SM in the grade of Rs.2000-3200 during that period. Eventhough the applicant had officiated in the higher grade, he was not given any officiating allowance due to him and he preferred a claims petition before the Central Government Industrial Tribunal-cum-Labour Court at Bangalore as C.G.A.No.04/2004 claiming an amount of Rs.56669/- as officiating allowance. Thereafter, the respondents had deposited the entire amount with interest. In the wake of the above facts, it is clear that the applicant was officiating in the higher

grade for the period from 01.4.1994 to 31.11.2001 and the respondents are expected to comply with the IREM and various Railway Board Circulars to regularise the applicant, taking into account the officiating period also and give confirmation to him. Eventhough the applicant was promoted to the grade of SM, he was not given regularization with effect from the period mentioned above and hence he seeks the following relief:-

“...to call for the records related to the issue of officiating allowance of the applicant and to direct the 2nd respondent to do the necessary to reckon the officiating period from 01.4.1994 to 30.11.2001 for the purpose of confirmation and further direct the 3rd respondent to give consequential fitment in the post of Station Master, Grade II carrying the scale of pay Rs.5500-9000 and to pass such other order/orders as this Tribunal may deem fit and proper and thus to render justice.”

2. The respondents entered appearance and filed a detailed reply statement denying the averments in the OA. They admitted that the applicant had claimed for officiating allowance before the Central Government Industrial Tribunal-cum-Labour Court at Bangalore as per C.G.A.No.04/2004 and the said amount was paid by the respondents as per the award of the CGIT. The applicant was posted as SM in Gooty Station in the scale of pay Rs.5000-8000 w.e.f. 01.12.2001 and thereafter, he was transferred to Chennai Division of Southern Railway on the basis of inter-Railway mutual transfer on 18.7.02. The transfer was mutual with one PatriPrakash, SM in the same scale of Chennai Division. His seniority was fixed on the basis of the SM

III category in accordance with para 310 of IREM Vol.I. Thereafter, the applicant was promoted to the grade of SM Grade II in the scale Rs.5500-9000 w.e.f. 01.11.2003 and again promoted as SM Grade I in the Pay Band Rs.9300-34800 with GP Rs.4600/- w.e.f. 01.11.2013. The applicant now claims that the period between 01.4.94 to 30.11.2001 has to be reckoned for regularising his appointment as SM Grade III and consequential fitment in the post of SM Grade II. According to the respondents, the applicant is indirectly claiming promotion as SM Grade II and SM Grade I while trying to get the officiating period also as if it was followed by regular promotion/confirmation from the year 1995 onwards. The respondents had paid the officiating allowance for the period from 01.4.94 to 30.11.01. The officiating allowance is paid on the basis of availability of post lying vacant in a particular station and whereas confirmation/regularization depends upon the total number of posts in the cadre and it is also subject to rules of promotion and reservation. According to them, the period spent as officiating at Lingeri and Gooty stations cannot be counted for consideration of higher post. The post of SM Grade II in the scale Rs.5500-9000 is filled from among the eligible employees as per their seniority-cum-suitability at the Divisional Level and not with reference to the posts available in a station. The claim of the applicant to consider the date of regular promotion from the date of officiating period cannot be sustained on the basis of any rule. The applicant wants to supersede his seniors and get service benefits.

3. The various avenues available to the SM is given by the respondents as

follows:-

Sl. No.	Category	Scale of pay	Avenue
1	Assistant Station Master	Rs.4500-7000	60% Direct Recruitment 25% Promotional Quota 15% LDCE Quota
2	Station Master Gr.III	Rs.5000-8000	Seniority-cum-suitability
3	Station Master Gr.II	Rs.5500-9000	75% Promotional Quota 15% Direct Recruitment 10% LDCE Quota
4	Station Master Gr.I	Rs.6500-10500	Selection post
5	Station Manager	Rs.7450-11500	Non-Selection post from 2005 onwards

The relevant portion of the IREM paras 122 and 125 is produced by the respondents as Annexure R1 and R2. The rules of reservation has to be strictly followed in filling up the vacancies in a particular category. Further, direct recruits also come in between the promotees. According to the respondents, the applicant was not senior enough to be regularised or promoted as SM Gr.II. At the time of his mutual transfer he was only SM Gr.III and sought mutual transfer with PatriPrakash who is also SM Gr.III. His seniority has to be fixed on the basis of the seniority of PatriPrakash as per para 310 of IREM Vol.I. The contentions for granting increment is also provided as per Rule 1320 of IREC Vol.II. The provision for granting increment is also given in the reply. It was also contended that there is no continuous officiating service in the scale as claimed by the applicant. There were breaks during the officiating period from 01.1.94 to 30.11.01 and there is also another break from 01.12.01 to 31.10.03. As per Rule 103 of IREC Vol.I, the applicant is eligible only for additional officiating

allowance and it is already paid to the applicant. There is no continuous officiating service followed by promotion as claimed by the applicant. Moreover, the applicant was transferred to Southern Railway on mutual transfer and his seniority is governed by Rule 310 of IREM Vol.I. The applicant has not obtained the seniority when the vacancies arose and he was not eligible for promotion and regularisation and the OA is not maintainable.

4. We have heard both sides. The counsel for the applicant had argued in accordance with his pleadings in OA. The counsel for the respondents mainly contended that the applicant was not eligible to hold the post of Station Master, Lingeri and there is no order showing that the applicant was appointed in an officiating capacity at Lingeri station. The allowances due to him for holding the charge of a higher post was paid as per order of the CGIT, Bangalore.

5. At this juncture, the counsel for the respondents invited our attention to an earlier case filed by the same applicant and by the same counsel as OA 512/2011. The above record of this Bench was taken and on verification we found that the said OA was disposed off by this Tribunal by order dt. 30.7.2014. The relief claimed by the applicant in the said earlier OA 512/11 is as follows:-

“to call for the records related to the issue of officiating allowance of the applicant and to direct the 2nd respondent to do the necessary to arrange to pay officiating allowance for the period from 01.12.2001 to 29.7.2002 and further direct the 3rd respondent to give consequential additional increments as a result of officiating during the period from 01.4.1994 to 29.7.2002 and to advance the fixation of pay by 3

months and 28 days on his promotion to the post of Station Master, Grade II carrying the scale of pay Rs.5500-9000 with effect from 01.11.2003 and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice.”

6. The Tribunal after considering the claim on merit had dismissed OA 512/11 on 30.7.14 stating that there is no merits in the claim put forward. The applicant filed RA 41/2014 seeking a review of the order on 09.9.2014 stating the claim on the basis of IREM 103, Rule 1306 (FR 9(24)) Rule 1328, 1320 and Railway Board letter dt. 05.10.2001. The RA also was dismissed by this Tribunal by order dt. 07.8.15. Aggrieved by the said RA order, the applicant filed WP No.14383/16 and the Hon'ble High Court of Madras by judgment dt. 26.7.18 had confirmed the order of this Tribunal in OA 512.11 and RA 41/14.

7. On a perusal of relief claimed in this OA, we can see that the relief claimed was substantially the same except a slight change in the words used. In earlier OA “he sought additional increments as a result of officiating allowance and to advance the fixation of pay by 3 months and 28 days on promotion to the post of Station Master Grade II with scale Rs.5500-9000”. In this OA the relief sought is modified to “reckon the officiating period from 01.4.94 to 30.11.01 for purpose of confirmation and further direct the respondent to give consequential fitment in the post of Station Master, Grade II carrying the scale of pay Rs.5500-9000”.

8. On a reading of the reliefs in OA 512/11 and OA 683/14, it can be seen that the same matter was earlier agitated and this Tribunal had given a verdict in OA 512/11.

So, it can be seen that this OA 683/14 is squarely hit by the principle of resjudicata.

So, this OA is not maintainable as such.

9. Accordingly, the OA is dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

19.12.2019

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Annexures referred to by the applicant in OA No.683/2014:

Annexure A1: Order in C.G.A.03/04 dt. 22.3.07.

Annexure A2: Representation dt. 07.2.12.

Annexure A3: RTI information dt. 03.10.13.

Annexure A4: Representation dt. 23.6.13.

Annexures with Reply Statement:

Annexure R1: Promotion of Category SM

Annexure R2: Intermediate Induction in the post of SM Grade II from the open market.