

Central Administrative Tribunal
Madras Bench

OA/310/01679/2014

Dated the 16th February Two Thousand Sixteen

P R E S E N T

Hon'ble Mr.R.Ramanujam, Member(A)

B.Uthayakumar
Traffic Controller,
O/o the Chief Controller,
Tiruchchirappalli Division,
Southern Railway,
Trichy. .. Applicant

By Advocate M/s.R.Pandian & Saravana Prakash.S

Vs.

1. Union of India rep by
The General Manager,
Southern Railway,
Park Town,
Chennai 600 003.
2. The Senior Divisional Personnel Officer,
Tiruchchirappalli Division,
Southern Railway,
Tiruchchirappalli. .. Respondents

By Advocate Mr.G.Nanmaran

ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The facts of the case as stated by the applicant are that while working as Station Master in Pay Band-2 with Grade Pay Rs.4200/- substantively, he was subjected to a departmental selection for promotion as Traffic Controller. However, on being successful and following his appointment to the said post, the respondents failed to fix his pay in terms of Rule 1313 (FR22)(I)(a)(1) of the Indian Railway Establishment Code. As appointment to the post of Traffic Controller was done pursuant to a positive act of selection, he is entitled to the benefit of higher fixation of pay on promotion and shouldering higher responsibilities. The applicant's representation to the 2nd respondent dated 06.1.2014, requesting for higher fixation of pay on promotion in terms of Railway Board's latest order permitting fixation of higher pay when promoted to hold higher responsibility eventhough both the feeder and promotional cadres are in the same PB and GP was not considered.

2. The applicant filed OA 1205/2014 in this regard which was disposed of by this Tribunal by order dated 18.8.2014 with a direction to the 2nd respondent to dispose of the representation as per rules. The impugned order dated 07.10.2014 rejecting the claim of the applicant came to be passed in compliance thereof. Hence this OA seeking to quash the impugned order of the 2nd respondent dated 7.10.2014 and to direct the respondents to fix his basic pay at Rs.22130/- (PB 17530 + GP 4600) from 14.9.2012 in terms of Rule 1313 (FR 22)(I)(a)(1) of IREC

read with Rule 13 of Railway Services (Revised Pay) Rules, 2008.

3. The contention of the applicant is that in a similar matter in OA 717/2006, this Tribunal granted the relief prayed for holding that promotion from the post of Station Master to the post of Section Controller is promotion with higher responsibility. Against the said order, the respondents filed WP 30151/2007 before the Hon'ble Madras High Court which dismissed the same by their order dated 25.2.2010 and directed the respondents to implement the order of this Tribunal in the said OA. The respondents preferred SLP (Civil) 12847/2010 before the Hon'ble Supreme Court which was also dismissed on 30.8.2010. Thus the issue in this regard has attained finality. As the applicant is also a similarly placed person as that of the applicants in the above said OA, his case is squarely covered by the above said order.

4. The respondents in their reply statement contend that the denial of benefit of pay fixation to the applicant on his promotion to the post of Section Controller is based on Railway Board letter dated 24.5.1999 (Annexure R1). The said letter dated 24.5.1999 does not include the post of Station Master in the feeder category and Section Controller in the promoted category. Therefore, the denial of benefit of pay fixation to the applicant on his appointment to the post of Section Controller in identical scale of pay is not violative of Rule 1313(FR 22)(I)(a)(1) of IREC Vol.II.

5. Heard the learned counsel for the applicant and the respondents and perused the pleadings and other material produced by the rival parties.

6. Learned counsel for the applicant submits that the case is fully covered the order of this Tribunal in OA 717/2006 dated 22.6.2007 which was upheld by the Hon'ble High Court in WP 30151/2007 dated 25.2.2010 and by the Hon'ble Apex Court by order dated 30.8.2010 in SLP (Civil)...../2010 (CC 12847/2010).

The Hon'ble Supreme Court while dismissing the SLP has held as follows:-

"In our view, the Tribunal had rightly interpreted Rule 1313 of the Railway Establishment Code and directed that the pay of the respondent, who had been promoted from the post of Station Master Grade-II to the post of Section Controller be refixed from the date he assumed higher responsibilities, i.e. 23.11.2003 and the High Court did not commit any error by refusing to interfere with the order of the Tribunal."

Thereafter, this Tribunal has allowed OA 1677/2014 wherein a similar issue has been dealt with and the Tribunal directed the respondents to issue necessary orders refixing the pay of the applicant therein with effect from the date he assumed higher responsibility.

7. Learned counsel for the respondents, however, drew attention to the provision of the rules to plead that the benefit of Rule 1313 could only be given where the Railway Establishment is satisfied that the post to which an employee is promoted carried higher duties and responsibilities.

8. I have carefully considered the facts of the case in terms of the settled law. It has been held in similar cases that the post of Section Controller carried higher functional responsibilities than the post of Station Master. This Tribunal has directed the respondents to refix the pay of the applicants therein after setting

aside the relevant impugned orders. There is nothing in this OA or the reply thereto to distinguish this case on law or facts.

9. In view of the above, the OA is allowed. The impugned order dated 07.10.2014 of the 2nd respondent is set aside. The respondents are directed to issue necessary orders refixing the pay of the applicant with effect from the date he assumed higher responsibility i.e., from the date of promotion within a period of two months from the date of receipt of a copy of this order. No order as to costs.