

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A/20/308/2014

Date of order : 21.11.2019

Between:



B BALAIAH,
S/o Sri Iylaiah (Late),
Occ: KHL PR, JE/Works/WL,
Aged about 55 years,
R/o Timmapuram Village & Post,
Sangem Mandal, Warangal Dist., A.P.

**APPLICANT
AND**

1. Union of India rep. by its General Manager,
South Central Railway, Rail Nilayam,
Secunderabad 500 071,
2. Divisional Railway Manager (P),
Personnel Branch, 5th Floor,
Sanchalan Bhavan,
South Central Railway,
Secunderabad 500 071,
3. Senior Divisional Engineer/Coordination,
South Central Railway, Kazipet,
Warangal,
4. Assistant Divisional Engineer (South),
South Central Railway, Kazipet,
Warangal.

... **RESPONDENTS**

Counsel for the applicant : Mr. K RAM MURTHY

Counsel for the respondents : Mrs. A P LAKSHMI,
SC FOR RAILWAYS

C O R A M :

THE HON'BLE Mr. S N TERDAL, MEMBER (J)

THE HON'BLE MRS. NAINI JAYASEELAN, MEMBER (A)

ORAL ORDER

(PER HON'BLE Mr. S N TERDAL, MEMBER (J)

Heard Mr. K. Ram Muthy, learned counsel for applicant and Mrs. A.P.Lakshmi, learned standing counsel for respondents.

2. Relief sought for in the OA is as follows:-



"Call for records pertaining to Impugned orders No.CW/452/WIV/C1.IV/Sr.DEN, dated 24.03.2005, KZJ/S/P/04/05 DATED 31.03.2005 and Payment Order for the month of October 2013 passed by 3rd and 4th Respondents and declare them as arbitrary, discriminatory, illegal and violation of Articles 14, 16, 311(2) of the Constitution of India and Rules made under proviso of Article 309 of the Constitution of India.

Consequently direct the Respondents to protect his pay on medical decategorisation appointment and pay arrears of pay from the date of eligibility along with interest @ 36% per annum, with costs in the interest of justice."

3. At the time of hearing, counsel for respondents specifically stated that after decategorisation, applicant was posted as Khalasi as he was suitable for Khalasi post after medical decategorisation with effect from October 2000. She further stated that his pay was protected as per the provision of Section 47 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. However, from the perusal of para 8 of their counter, it is seen that the applicant was in the pay scale of Rs.2610-3540 and he was now placed in the pay scale of Rs.2550-3200. In view of the provisions of Section 47 of the Act referred to above and in view of the law laid down by Hon'ble High Court of Judicature at Madras in ***S.Raghuraman Vs. Union of India and others in W.P.No.40730 of 2002***, vide judgement dated 01.10.2007, learned counsel for respondents vehemently and strenuously submits that the

applicant's pay has been protected by fixing his pay at Rs.3200 plus Special Pay of Rs.15/- and thus his earlier pay of Rs.3215/- is protected.

4. However, in view of the averments made by respondents in para 8, the applicant was in the pay-scale of Rs.2610-3540 as such, we are of the view that not only the pay of the applicant has to be protected, but he is entitled to the same pay scale under the above said provisions as well as under the judgement of Hon'ble High Court of Madras (supra).

5. In view of the facts and circumstances narrated above, we dispose of the OA with a direction to respondents to fix the pay of the applicant in the pay scale of Rs.2610-3540 with all consequential benefits, within two months from the date of receipt of a copy of this order.

6. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (A)

(S. N. TERDAL)
MEMBER (J)

vsn