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**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

Original Application No. 350/01630/2017

Date of Order: This, the 26th Day of September, 2019.

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER



Bikash Roy, son of late Ruhi Roy,
aged about 58 years,
working as Station Peon/How/SMR/S.E. Rly.,
residing at 81/1-C, Raja Dinandra Street,
Kolkata – 700006.

...Applicant.

-Versus-

i) Union of India, through the
General Manager, South
Eastern Railway, Garden
Reach, Kolkata – 700043.

ii) The Divisional Railway Manager (P),
South Eastern Railway, Kharagpur.

Respondents

For the Applicant: Sri A Chakraborty

For the Respondents: Ms D Nag

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

By this O.A. filed under Section 19 of the
Administrative Tribunals Act, 1985 the, applicant is
seeking following relief(s):-

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"8.a) Speaking Order dated 11.09.2017 issued by Divisional Railway Manager (P), cannot be sustained in the eye of law and same may be quashed.

b) An order do issued direct to the respondents to grant contraction appointment in the pay band of Rs. 5200-20200/- + 1900/- (G.P.) w.e.f. 19.08.2016 and also to grant MACP in the Grade Pay of Rs. 2000/- w.e.f. 05.07.2014 and also to grant consequential benefits."

2. We have heard Sri A.Chakraborty, learned counsel for the applicant and Ms D Nag, learned counsel for the railway respondents, perused the pleadings and the documents annexed therein.



3. The applicant was medically de-categorized and placed in alternate category. He was placed in initial grade and his pay was reduced and he was placed in GP Rs.1800/-. RBE circular dated 29.04.1999 prescribes says that if Railway Servant is medically de-categorized he should be shifted to some other post with same pay scale and service benefits. Applicant was granted 2nd MACP in the Grade Pay of Rs.1900/- On 22.04.2016 applicant made a representation before the Screening Committee stating interalia that he would accept the post of Station Peon in Operating Department with lower Grade Pay of Rs.1800/- without

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any prejudice simultaneously he would be debarred from preferring any appeal against such posting. Thereafter applicant made representation on 29.05.2017 praying for revoking the order of posting and prayed for his posting in the Grade Pay of Rs.1900/-. When no response came from the respondents, applicant filed OA.861/2017 and vide order dated 29.08.2017 said OA was disposed of by directing disposal of the pending representation within three months. In pursuance of the order of this Tribunal, the respondent vide order dated 11.09.2017 rejected the prayer of the applicant which is impugned in this OA. According to the said order, as per his own willingness, his pay was fixed in the lower post.



4. We have heard Sri A Chakraborty, learned counsel for the applicant and Ms D Nag, learned counsel for the respondents, and perused the pleadings the documents on record. Learned counsel for the applicant has placed reliance on the decision of the Hon'ble Supreme Court in the case of **Bhagwan Dass and Another vs Punjab State Electricity Board, (2008) 1 SCC (L&S) 242** in support of his claim.

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5. In the written statement the respondents have categorically submitted that due to medical categorization and willingness to accept lower pay with Grade Pay of Rs.1800/-, applicant's pay was re-fixed in Grade pay of Rs.1800/- with Rs.500/- Personal Pay to protect his original pay and as such, his original pay was not reduced at any time. As such, the decision relied upon by the applicant is not applicable in the facts and circumstances of this case.



6. In view of the fact that upon medical de-categorization, applicant himself gave his willingness to accept the lower post with lower grade pay and accordingly his pay was re-fixed after protecting his original pay, we do not find any infirmity or illegality in the matter of re-fixation of pay of the applicant.

7. Having found no merit the OA is dismissed. There shall be no order as to costs.

(N. NEHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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