

Central Administrative Tribunal
Principal Bench

O.A. 582/2001

New Delhi this the 1st day of October, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).
Hon'ble Shri Govindan S. Tampi, Member(A).

Smt. Sushila Tripathi,
Head Travelling Ticket Examiner,
Northern Railway,
Delhi Division,
New Delhi-110001.

... Applicant.

(By Advocate Shri M.K. Gupta)

Versus

1. Union of India through
General Manager,
Northern Railwaay,
Baroda House,
New Delhi-110001.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi-110001.
3. The Divisional Railway Manager,
Northern Railway,
Allahabad (UP).
... Respondents.

(By Advocate Shri B.S. Jain - for Respondents 1 and 2,
By Advocate Shri R.L. Dhawan - for Respondent 3)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The applicant is aggrieved by the action of the respondents in fixing her salary which, according to them, has been fixed as per Paragraph 406 of the IREM (Vol.I) w.e.f. 1.1.1984 as per the order dated 31.7.2000.

2. The applicant had filed an earlier O.A. (O.A. 2083/1998) which was disposed of by order dated 10.12.1999. According to the applicant, the respondents have wrongly denied her the benefits of the higher pay scale without any justification after 17.11.1988.

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3. The applicant was appointed as Ticket Collector on 17.7.1976 in Allahabad Division in the pay scale of Rs.260-400 and promoted as Sr. Ticket Collector in the pay scale of Rs.330-560. She joined Delhi Division on mutual transfer with Shri A.C. Ojha, Sr. Ticket Collector (Sr. TCR) in the pay scale of Rs.330-560 w.e.f. 17.11.1988 and was further promoted as Head TTE in the scale of Rs.1400-2300 w.e.f. 23.7.1993. The respondents have contended that in compliance with the Tribunal's order dated 10.12.1999 in O.A.2083/1998, they have revised the pay of the applicant from 1.1.1984 to 16.11.1988 during which period she was at Allahabad Division and given her the monetary benefits of 'restructuring' which were applicable to her. They have relied on the provisions of Paragraph 604 of the IREM (Vol.I) and, according to them, they have fixed her pay in terms of this Paragraph in the impugned order.

4. It is noted from the impugned order dated 31.7.2000 that although the applicant had been given the grade of Rs.1400-2300 w.e.f. 1.1.1984 to 1.1.1988, w.e.f. 17.11.1988 when she came on transfer to Delhi Division from Allahabad Division on mutual transfer basis, her pay has been reduced to the grade of Rs.1200-2040. Learned counsel for the respondents has submitted, including in the written submissions, that since her juniors were promoted in Allahabad Division, consequently she too was given the pay scale of Rs.425-640/1400-2300 (revised) w.e.f. 1.1.1984. His main contention was that the applicant is not entitled

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to the benefit of restructuring in Delhi Division, as a large number of employees senior to her in this Division have not been ¹² granted the benefit of restructuring w.e.f. 1.1.1984. Therefore, the respondents have submitted that the applicant was not entitled to the benefit of pay protection on 17.11.1988 in terms of statutory Rule 604 of the IREM Vol.I, (1989 Edition)

5. The above stand has been contested by the learned counsel for the applicant who has prayed that the impugned order may be quashed, to the extent it fixes the applicant's pay and allowances in the pay scale of Rs.1200-2040 w.e.f. 17.11.1988 and on the contrary declare her entitled for grant of pay scale of Rs.1400-2300 beyond 16.11.1988 with all consequential benefits.

6. Paragraph 604 of the IREM (Vol.I) reads as follows:

"In case of transfers from one railway department to another including transfer from a Government department, following general principles should be observed:-

(a) TRANSFER FROM A HIGHER TO A LOWER POST -

(a) (i) Temporary employees. - In such cases the benefit of completed years of service in the higher post may be given for purposes of advance increments in the lower post to which railway servant is appointed, provided, of course, that does not exceed the pay drawn in the higher post at the time of transfer. In case the appointment to the lower post involves appointment to a regular cadre with immediate or future prospects of absorption as a permanent railway servant, care should be taken to see that grant of advance increments does not come into conflict with the pay fixed for other railway servants in the cadre. In such cases, normally, it may be preferable to fix the pay at the minimum of the time-scale, and to grant, subject to the approval of the Railway Board, a personal pay equal to the appropriate number of increments instead of

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fixing the pay at a higher stage in the time-scale,
the personal pay being absorbed in future
increments".

(Emphasis added)

7. From the relevant facts of the case, it is seen that at the time when the applicant came on mutual transfer with Shri A.C. Ojha, Sr. TCR, both were in the grade of Rs.1200-2040. The contentions of the learned counsel for the respondents that as she has come on mutual transfer from Allahabad Division to Delhi Division, hence, her seniority would be at the bottom, is not germane to the question under consideration here, namely the re-fixation of her pay. From the facts of this case, it is seen that the applicant has been given the benefit of restructuring in Allahabad Division and accordingly given the pay scale of Rs.1400-2300 in the impugned order dated 31.7.2000, from 1.1.1984 till her transfer to Delhi Division on 16.11.1988. Paragraph 604 of the IREM (Vol.I) reproduced in para 6 above provides that where a transfer has been effected from the higher to a lower post, normally the pay should be fixed at the minimum of the time scale and personal pay should be granted to the employee and the personal pay should be absorbed in future increments, subject to the approval of the Railway Board. The impugned order nowhere states that the respondents have fixed the applicant's pay at a higher stage in the time scale plus personal pay, as provided in Paragraph 604 of the IREM (Vol.I). The respondents themselves have stated that at the time when the applicant came on mutual transfer from Allahabad Division to Delhi Division, as a result of the benefit derived by her due to restructuring her pay scale

was higher than the pay scale of the post held by Shri A.C. Ojha. Paragraph 604 of the IREM specifically takes care of such a situation where the approval of the Railway Board has to be obtained which in the present case does not seem to have been done.

8. In the above facts and circumstances of the case, the O.A. succeeds and is allowed with the following directions:

(i) Respondent 1 to place the case of the applicant for obtaining approval of the Railway Board so as to fix her pay at the minimum of the time scale plus personal pay, in accordance with the provisions of Paragraph 604 of the IREM (Vol.I);

(ii) The above action shall be taken within two months from the date of receipt of a copy of this order;

(iii) In view of the above order, we do not think it is necessary to consider the alternate prayer of the applicant at this stage.

No order as to costs.

Govindan S. Tampi
Member (A)

'SRD'

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)