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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1974/97
M.A.No.2307/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 7th day of August, 2000

Shri R.K.Choudhary
Sr. Sectional Engineer (Technical)
Western Railway
Loco Shed
Tughlakabad
New Delhi.
(By Shri B.S.Maine, Advocate)

... Applicant

vs.

1. Union of India through
The General Manager
Western Railway
Church Gate
Mumbai.
2. The Divisional Railway Manager
Western Railway
Kota.
3. The Sr. Divisional Electrical Engineer
Electric Loco Shed
Western Railway
Tughlakabad
New Delhi.
(By Shri P.S.Mahendru, Advocate)

.. Respondents

O R D E R (Oral)

By Justice Rajagopala Reddy:

While the applicant was working as Senior Sectional Engineer (Technical) in the grade of Rs.2375-3500 at Bombay Central Divn., Western Railway, he was transferred to Kota Division, at his request in a lower grade of Rs.2000-3200. At the time of transfer, i.e., 3.12.1990, he was drawing the pay of Rs.2750/- per month and the same was protected in the lower scale of pay. However, in the impugned order, which was passed after seven years, i.e, in 1997 the applicant's pay is sought to be reduced.

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2. The learned counsel for the applicant contends that as he was only transferred to a post of lesser scale, he was entitled for pay protection as he was drawing pay which was not in excess of the maximum of the lower scale.

3. Heard the counsel for the applicant and the respondents.

4. We have given careful consideration to the contentions. This is a case where the applicant was transferred to a lesser post as his transfer was at his request. The order dated 3.12.1990 shows that he was posted on transfer to the scale of Rs.2000-3200. As the applicant was drawing the pay of Rs.2750/- at the time of his transfer, it was less than the maximum of the lower scale of Rs.2000-3200. Relying upon the proceedings dated 4.10.1994 issued by the Railway Board he contends that he was entitled for pay protection. These proceedings were issued after the question of fixation of pay of an employee on transfer at his own request from a post of higher grade to a lower grade was referred to the DoPT, and after receipt of the clarification as under:

"If the concerned employee has been holding the higher post substantively on regular basis and the pay drawn in even higher post is less than or equal to the maximum of the scale of pay of lower post then only the pay drawn in such higher post will be protected."

5. We are of the view that as per the clarification, the applicant's pay was entitled for pay protection and his pay was rightly protected.

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6. The respondents are now seeking to refix the scale of the applicant at Rs.2600/- as on 5.12.1990, treating the applicant as if he was reverted to a lower post, on his transfer. If the applicant was considered as if he were reverted, he should have been allowed the minimum of pay in the scale of Rs.2000-3200. His pay was however reduced from Rs.2750/- to Rs.2600/- as on 5.12.1990. Though the Railway Board has issued the proceedings at a later date, the applicant is entitled to its benefit as it is in the nature of a clarification. We do not find any justification in the reduction of pay in the impugned order. The impugned order is therefore set-aside. The OA is accordingly allowed. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

/RAO/

(V. RAJAGOPALA REDDY)
VICE CHAIRMAN (J)