

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.424/97

Friday, this the 10th day of December, 1999.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Ashok Kumar G,  
Station Master Grade I,  
Kazhakottam.

- Applicant

By Advocate Mr P.B.Suresh Kumar

Vs

1. Southern Railway  
represented by the General Manager,  
Southern Railway,  
Madras.
2. Divisional Railway Manager,  
Southern Railway,  
Thiruvananthapuram.
3. Senior Divisional Personnel Officer,  
Southern Railway,  
Thiruvananthapuram. - Respondents

By Advocate Mrs Sumathi Dandapani

The application having been heard on 10.12.99, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-5 dated 21.8.96.

2. The applicant who have selected and appointed in  
the Railways as Traffic Apprentice, absorbed on completion  
of training in the cadre of Station Master in the scale  
of Rs.1400-2300. Railway Board on 15.5.87 issued a letter  
whereby it was ordered that the Traffic Apprentices in  
future shall be absorbed in the scale of Rs.1600-2600.

The applicant was undergoing training at the time when the said letter was issued by the Railway Board. As per A-3, it was proposed to revise the pay and the seniority of the incumbents like the applicant consequent to the judgement of the Apex Court in Civil Appeal No.5410/91 and the connected cases. A-5 says that the revision proposed as per A-3 is just and fair and accordingly necessary further action will be taken in pursuance of the judgement of the Apex Court.

3. Respondents resist the O.A. contending that the O.A. is not maintainable. The whole issue has been settled by the Apex Court by its judgement in C.A.5410/91. The applicant has not challenged R-1 order issued by the respondents revising his seniority in the scale of pay of Rs.1400-2300 and refixing his pay accordingly, issued as a follow up action of the decision communicated as per A-5.

4. A-5 does not refix the seniority of the applicant and so also his pay. It only says that necessary further action will be taken in order to refix his seniority and pay. So no order refixing the seniority or pay of the applicant has been done as per A-5. It has been done as per R-1 dated 23.9.96. R-1 is not under challenge. The O.A. was filed on 13.3.97. R-1 was issued prior to the filing of the O.A. For reasons best known to him, he has preferred not to make a whisper about R-1 in the O.A. The applicant if aggrieved by R-1 as already stated, he has not challenged the same.

5. A-2 is the copy of the judgement delivered by the Apex Court in C.A.5410/91. There in paragraph 17 it is stated thus:

"A-1 appeals, therefore, stand disposed of by setting aside the judgements of those Tribunals which have held that the pre-1987 Traffic/Commercial Apprentices had become entitled to the higher pay scale of Rs.1600-2660 by the force of memorandum of 15.5.1987. Contrary view taken is affirmed. We also set aside the judgement of the Erakulam Bench which declared the memorandum as invalid; so too of the Patna Bench in appeal @ SLP(C) No.15438 of 1994 qua respondent No.1. We also state that cases of respondents 2 to 4 in appeals @ SLP(C) Nos.2533-35 of 1994 do not stand on different footing."

In paragraph 18 it is stated thus:

"Despite the aforesaid conclusion of ours, we are of the view that the recovery of the amount already paid because of the aforesaid judgements of the Tribunals would cause hardship to the concerned respondents/appellants and therefore direct the Union of India and its officers not to recover the amount already paid. This part of our order shall apply (1), to the respondents/appellants who are before this court; and (2) to that pre-1987 Apprentice in whose favour judgement had been delivered by any CAT and which had become final either because no appeal was carried to this court or, if carried, the same was dismissed. This benefit would be available to no other."

6. The learned counsel appearing for the applicant relying on Authorised Officer(Land Reforms) Vs M.M.Krishnamurthy Chetty, (1998) 9 SCC,138, submitted that even after pronouncement of A-2 order, A-1 order stands good. A-1 order says that:

"Accordingly we close this application with the direction to the respondents that the benefits on the above lines should be made available to the applicants within a period of 90 days from the date of communication of this order."

The only applicant herein is the 1st applicant in A-1.

6. In A-2 judgement it is specifically stated:

"This part of our order shall apply (1), to the respondents/appellants who are before this court; and (2) to that pre-1987 Apprentice in whose favour judgement had been delivered by any CAT and which had become final either because no appeal was carried to this court or, if carried, the same was dismissed."

The applicant is a pre-1987 Apprentice. So he is bound by A-2 ruling. The argument advanced in the light of the ruling in Authorised Officer(Land Reforms) Vs M.M.Krishnamurthy Chetty cannot be accepted since from a reading of the same it is not seen that in the said judgement, there was any order to the effect as in A-2 that in whose favour judgement has already been delivered by any CAT and it has become final either because no appeal has been carried out to this court etc.

8. The learned counsel appearing for the applicant further submitted that what is contained in A-2 to the effect that pre-1987 Apprentices in whose favour judgement has been delivered by any CAT and which has become final shall stand dismissed applies only as far as the recovery of the amount already paid and not in any other case. If this argument is accepted, what is contained in A-2

judgement that pre-1987 Apprentices in whose favour judgement has been delivered by any CAT and which has become final shall stand dismissed will be redundant, for the judgement rendered in favour of the Apprentices can only be for non-recovery of the amount already paid.

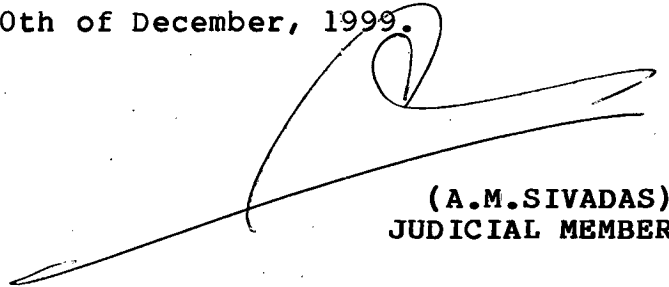
9. The matter has been clearly concluded by A-2 order. In the light of A-2, the applicant has no legs to stand.

10. The O.A. is accordingly dismissed. No costs.

Dated, the 10th of December, 1999.



(G. RAMAKRISHNAN)  
ADMINISTRATIVE MEMBER



(A.M. SIVADAS)  
JUDICIAL MEMBER

trs/131299

List of Annexures referred to in the Order:

1. A-1: True copy of the order No.V/P.99/II/SLP O.A. 67/91 issued to the applicant by the 3rd respondent dated 21.8.96.
2. A-2: True copy of the judgement of the Hon'ble Supreme Court in C.A.No.5410/91 and connected cases dated 5.7.96.
3. A-3: True copy of the Notice No.V/P 99/II/SLP O.A. 67/91 issued by the 3rd respondent to the applicant dated 5.7.96.
4. A-5: True copy of the order No.V/P.99/II/SLP O.A. 67/91 issued to the applicant by the 3rd respondent dated 21.8.96.
5. R-1: True copy of OM No.V/P.99/II/SLP O.A.67/91 of 23.9.96 issued by the 3rd respondent.