

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 427 of 2011

wednesday, this the 27th day of June, 2012

CORAM:

Hon'ble Mr. Justice P.R Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

K.V. Velayudhan, Aged 61 years,
 S/o. Kanna, (Retired Server, Indian Railways Catering &
 Tourism Corporation Ltd., Southern Zone, Chennai Central),
 Residing at : Janaki Nivas, Thavakkara Colony,
 Civil Station Post, Kannur, Kerala State. **Applicant**

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. The Union of India, represented by the General Manager, Southern Railway, Head Quarters Office, Park Town (PO), Chennai-3.
2. The Railway Board, Ministry of Railways, New Delhi – Through its Secretary.
3. The Chief Personnel Officer, Southern Railway, Head Quarters Office, Park Town (PO), Chennai-3.
4. The Senior Divisional Personnel Officer, Southern Railway, Chennai Division, Chennai-3.
5. The Managing Director, Indian Railways Catering & Tourism Corporation Ltd., Parliament Street, New Delhi-110 001.
6. The Regional Director, Indian Railways Catering & Tourism Corporation Ltd., Mc Nicholas Road, Chetpet, Chennai-31.
7. The Divisional Railway Manager, Southern Railway, Tiruchirappalli Division, Tiruchirappalli, Tamil Nadu.
8. The Divisional Railway Manager, South Western Railway, Bangalore Division, Bangalore, Karnataka. **Respondents**



**[By Advocates – Ms. K. Girija (R1-4) &
Mr. M.C. Cherian (R5&6)]**

This application having been heard on 18.06.2012, the Tribunal on
27-06-12 delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member -

The applicant in this Original Application was absorbed as regular Bearer/Server in the scale of Rs. 196-232/- on 3.9.1979. He was working at Thiruchirappalli Division up to 30.04.1991. He was transferred to Bangalore Division on 1.5.1991 and then to Hubli Division on 14.8.2004. When South Western Railway was formed the applicant opted to remain in Southern Railway. Hence, he was transferred to Southern Railway, Chennai on 25.2.2005. He was permanently absorbed in Indian Railways Catering & Tourism Corporation Ltd. (in short IRCTC) on 1.1.2007. He retired from service on 31.5.2009. During the transfers mentioned above the service records of the applicant were found missing. His service records were reconstructed subsequently.

2. This Original Application has been filed by the applicant seeking re-fixation of his pay on par with his junior Shri M. Nandan up to 1.1.2007. He also seeks a declaration that he is entitled to exercise his option for fixation of his pay upon granting of promotions/financial up-gradations under the ACP scheme and to absorb him in the IRCTC in the post carrying scale of pay equivalent to the scale of pay of Rs. 3050-4590/- and to re-fix his pay and pension accordingly and disburse him the arrears thereof. In the alternative he also seeks a direction to the respondents to re-fix his pension



and other retirement benefits as if he had retired from service with effect from 1.1.2007 and to grant him the arrears of pension and other retirement benefits. He also claims interest at the rate of 12% per annum on the delayed payment of pension and retirement gratuity with effect from 1.1.2007 and with effect from the date from which the monthly pension fell due and thereafter up to the date of actual date of payment of pension/retirement gratuity.

3. The applicant submitted that the re-construction of the service register made after the retirement of the applicant on 31.5.2009 could only be taking into consideration the pay fixed in the case of his junior Shri M. Nandanam. Since the pay of the applicant was not fixed on account of any fault on his part the refusal to pay the same is arbitrary and discriminatory. He should be granted the benefit of pay fixation at every stage of promotion/ACP.

4. In the reply statement filed on behalf of respondents 5 & 6 it was submitted that the IRCTC does not come under the jurisdiction of this Tribunal as held in OA No. 486 of 2010 as per order dated 22.8.2011. The IRCTC had made payments even before the applicant had given his option letter for pro-rata pension on 6.7.2009 and even in excess of the actual due.

5. In the reply statement filed by the respondents 1 to 4, 7 & 8 it was submitted that the applicant was granted two financial up-gradations under the ACP scheme. The Modified Assured Career Progression scheme was introduced by the Railway Ministry w.e.f. 1.9.2008 and he was permanently absorbed in IRCTC from 1.1.2007 and therefore he is not governed by that

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scheme. The pay of Shri M. Nandan was erroneously fixed at Rs. 206/- with effect from 1.8.1982 instead of Rs. 203/- whereas in the case of the applicant it was correctly fixed at Rs. 203/- with effect from 1.8.1982. Corrective action will be taken in the case of Shri M. Nandan. Therefore, stepping up of applicant's pay on par with Shri M. Nandan does not arise. Various relief sought by him have already been paid to him.

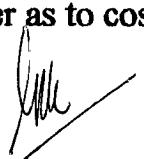
6. We have heard the learned counsel for the parties and perused the pleadings and records of the case.

7. Since the filing of this Original Application the applicant has been paid some of the benefits sought by him. The same was admitted during the hearing. As regards fixation of his pay which is less than the pay of his junior Shri M. Nandan, the Railway respondents have admitted that the pay of Shri M. Nandan was erroneously fixed, whereas the pay of the applicant has been fixed correctly with effect from 1.8.1982. Corrective action is being taken in the case of Shri M. Nandan. Therefore, the question of stepping up of pay of the applicant at par with the pay of Shri M. Nandan does not arise. An inadvertent mistake on the part of the respondents cannot be perpetuated. A mistake cannot be the basis for any legal claim on the part of the applicant. If there is any delay in making payment to the applicant by the Railways he may make a representation to them with full details for consideration and appropriate action. This would hold good also for effecting payments if any. As regards fixation of higher pay on absorption in IRCTC, as rightly submitted by the IRCTC respondents, this Tribunal has no jurisdiction over IRCTC. The applicant



may work out his remedies elsewhere.

8. With the above observations this Original Application is disposed of with no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R RAMAN)
JUDICIAL MEMBER

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