

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Wednesday this the 31st day of January, 2001.

CORAM

O.A.No.443/98

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

T.J. Benjamin, aged 39,
S/o P.C. Ouseph,
Thenteckal House,
Irinjalakuda North P.O.,
Working as Senior Section Engineer(Works),
Constructions, Southern Railway,
Ernakulam.

Applicant

(By Advocate Mr. B. Gopakumar)

Vs

1. Union of India,
represented by the General Manager,
Southern Railway,
Madras - 3.
2. The Executive Engineer(Construction),
Office of the Executive Engineer,
Southern Railway,
Ernakulam.
3. Assistant Labour Commissioner(Central),
Office of the Regional Labour Commissioner(Central),
Kalathiparambil Road, Ernakulam,
Cochin-16.

Respondents

(By Advocate Mrs. Sumathi Dandapani)

The application having been heard on 31.1.2001, the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant working under Senior Section
Engineer(Works), Construction, Southern Railway, Ernakulam as a
mate is aggrieved by reduction of his pay by the impugned order
dated 11.3.98 Annexure A-2, by which his pay was reduced and
re-fixed w.e.f. 1.1.96 without even giving him a notice.
Therefore, he has filed this application challenging the
Annexure A-2 order of re-fixation of pay and for a direction to

respondents 1 and 2 to see that pay and allowances of the applicant mentioned in Annexure A-1 is protected and increments which fell due on 1.1.98 is drawn and paid to him.

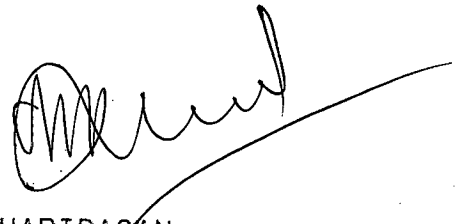
2. The respondents seek to justify the action on the ground that in view of circular dated 5.11.76 of the Railway Board the pay of the applicant on regular absorption as Gangman has to be regulated based on the pay of the post of Gangman. The Tribunal had occasion to consider identical issues in OA 437/98. The applicant, M.A. Antony in that case was at Sl. No.24 in the impugned order A-2 and his grievance was identical to that of the applicant in this case. The Tribunal rejected the contention on the basis of circular dated 5.11.76 and following earlier decision of the Bench in OA 905/97 and connected cases set aside the impugned order to the extent it affects the applicant in that case. As the fact and circumstances in that case are identical to the facts and circumstances of the OA 437/98 the order which was set aside in that case was the very same order which is impugned in this case. We find no reason to take a different view.

3. In view of the ruling of the Tribunal in OA 905/97 and 437/98, we allow this application setting aside the impugned order A-2 to the extent it affects the applicant and direct the respondents to continue to make payment to the applicant as if the impugned order has not been issued.

No order as to costs.

Dated the 31st day of January, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

oph

Annexures referred to in this Order:

- A-1: True copy of the pay slip in respect of the applicant for the month ending 20.2.98 issued by the 2nd respondent.
- A-2: True copy of Order No.8/98 dated 11.3.98 issued by the 2nd respondent and served on the applicant on 16.3.98.