

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~XXXXXX~~

496 of 1991

DATE OF DECISION 31.1.1992

N. Aravindakshan Applicant (s)

P.Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India represented
by General Manager, Southern Respondent (s)
Railway, Madras and others

P.A. Mohammed, for R.1 to 4 Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. **S.P.Mukerji** - Vice Chairman

and

The Hon'ble Mr. **A.V.Haridasan** - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *M*
3. Whether their Lordships wish to see the fair copy of the Judgement? *M*
4. To be circulated to all Benches of the Tribunal? *M*

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

We heard the learned counsel for both the parties on this application which is a fall-out of the Judgment of the Tribunal dated 23.12.87 in T.A.K.271/86, a copy of which has been annexed with the Original Application as Annexure A.I. The direction in that Judgment is as follows:

"We feel that his transfer to Trivandrum Division at this stage will to some extent repair the damage that he has sustained. The impugned order dated 18-10-82 (Exbt.P.10) will stand modified to indicate that on his transfer to Madurai Division, his seniority will count from 8-7-1969. The respondents are also directed to pay whatever salary and allowances he is entitled to for the period between 6-3-82 and 15-9-82 i.e., the period between his being relieved from South Central Railway and taking over in the Trivandrum Division of Southern Railway, after adjusting the amount, if any, already paid to him for this period.

The petition is disposed of on the above lines. There will be no order as to costs."

2. The applicant in this application has prayed that the impugned order dated 26.11.90 in which his seniority has not been given on the basis of the crucial date of 8.7.69 as directed in the judgment^{be set aside.}. He has also prayed that the respondents be directed to fix his seniority on the basis of 8.7.69 with all consequential benefits of promotion and pay in the higher grades when his juniors were so promoted. His further prayer is that the respondents be directed to pay the arrears of pay for the period from 6.3.82 to 15.9.82 as directed in the aforesaid judgment.

3. The respondents have not filed any counter affidavit but the learned counsel for the respondents Shri P.A. Mohammed produced before us the order issued by the Divisional Personnel Officer, Madurai dated 28.9.91 which reads as follows:

"In pursuant to the judgment delivered on Review Application RA 4/88 filed by the Railway before CAT/ERS against CAT judgment in TA 271/86 (OP.1221/83), the seniority of Shri N.Aravindakshan, SM.III EDN who came on Inter-Railway one way transfer to S.Railway on 1.4.82 is to be counted not from the date of his posting on 1.4.82 but from 8.7.69 when he had represented for transfer.


Accordingly, the seniority of Shri N. Aravindakshan, SM.III/EDN is revised as detailed below:-

i) Placed in between Sri V.Rajan, UT.298 (Sl.No.420) and Sri P.A. Krishna Iyer, UT.299 (Sl.No.421) in scale Rs.33-560 in the seniority list of ASMS in scale Rs.330-560 published as on 1.12.78.

ii) Placed in between Sri T.A.Pillai, S.No. UT.296 (Sl.No.39) and Sri P.A.Krishna Iyer UT. 299(Sl.No.40) in scale Rs.1400-2300 in the seniorist list of SM.III in scale Rs.1400-2300 published on 26.6.89."

The learned counsel for the applicant having seen this order, satisfied that the applicant seniority has now been correctly fixed.

4. In the context of the aforesaid memorandum therefore, we allow this application, set aside the impugned order at Annexure. A.IV and direct that the seniority of the applicant be fixed in accordance with the aforesaid memorandum dated 28.8.91 and the applicant should be considered for promotion to the higher posts with effect from the dates his juniors ^{as per his} revised seniority, were ~~also~~ considered. If he ^{is} so promoted, his pay in the higher grades should be refixed and arrears of pay and allowances paid to him. The respondents are also directed to pay the arrears of pay for the period from 6.3.82 to 15.9.82 as already directed by this Tribunal in the aforesaid judgment of 23.12.87. The action as regards fixation of seniority and payment of salary between 6.3.82 and 15.9.82 should be completed within a period of one month from the date of communication of this order and action for considering him for further promotion and refixing his pay in the higher grades and payment of arrears thereafter should be completed within a period of three months from the date of communication of this order. There will be no order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

31.1.92

Ks31192.

CPC 177/92 in

DA. 496/91

SPM

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Mr T. G. Swami
Mr P. R. Mohamed

Learned counsel for the respondents
wishes to file reply to the C.P. within 4 weeks
with a copy to learned Counsel for petitioner,
list for final hearing on 18.1.93.

phr

(AVH)
14/12

(SPM)
14/12

18-1-93
(24)

Mr Sivan Pillai
Mr PA Mohamed

The learned counsel for the respondents has
produced a cheque of Rs.17,912/- in favour of the appli-
cant indicating that the judgement has been fully
complied thereby. He seeks some time to file a state-
ment to that effect. He may do so within 2 weeks with
a copy to the ^{Ld. counsel for the} petitioner to whom the aforesaid cheque
has been delivered in our presence.

List for further direction on 10.2.93

phr

(AVH)

(SPM)

18-1-93

(30) Mr P Sivan Pillai
Mr PA Mohammed

Learned counsel for the respondents prays some
more time to file a statement as to the directions of
this Tribunal dated 18.1.93. ^{Granted.} Post on 8.3.93.

RR

ND

10.2.93

8.3.93

(29)

Mr. Sivan Pillai th. proxy
Mr. PA Mohammed

The learned counsel for the original respondents handed over a cheque of Rs. ~~2550/-~~ 2,915/-² in favour of the applicant, to the learned counsel for the original applicant. The learned counsel for the applicant is satisfied ^{with} about the full compliance of the judgment. Accordingly the CP(C) is closed and notice discharged.

(AV Haridasan)

J.M.

8.3.93

(SP Mukerji)

V.C.

Order dt. 8/3/93
received
&