

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.505/2003.

Monday this the 23rd day of June 2003.

CORAM:

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

(By Advocate Shri M.P.Varkey)

vs.

1. Union of India represented by
General Manager,
Southern Railway, Chennai-600003.
2. The Chief Personnel Officer,
Southern Railway, Chennai-600003.
3. S.Nityanandan,
Chief Supervisor/Enquiry &
Reservation, Southern Railway,
Madurai Junction,
Tamil Nadu-625010.

(By Advocate Shri P. Haridas)

The application having been heard on 23.6.2003, the Tribunal on the same day delivered the following:

ORDER

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

The applicant, a Chief Supervisor/Enquiry & Reservation Alleppey has filed this application challenging the order dated 11.9.2002 of the 2nd respondent communicated by A5(a) letter dated 31.10.2002 of the Senior Divisional Personnel Officer, Trivandrum turning down his request for stepping up of pay on par with the 3rd respondent, S.Nityanandan who was his junior in the post of Enquiry and Reservation Supervisor Grade 5500-9000. It is alleged that Shri Nityanandan was working in Madurai Division while the applicant was working in Trivandrum Division that Nityanandan is getting a higher pay of

Rs.7500/from 1.8.2001, came to the notice of the applicant in November, 2002 and that immediately he made A-4 representation claiming stepping up and that the refusal on the part of the 2nd respondent to grant the relief is unreasonable.

2. We have gone through the application and the Annexures thereto and have heard Shri M.P.Varkey , learned counsel for the applicant and Shri P.Haridas, learned standing counsel for the Railways. Mr. Varkey argued that the aplicant was senior to Nityanandan, not having been disputed in the impugned order and as the promotion of Nityanandan was on fortituous circumstances, the denial of stepping up of pay is against the rules.

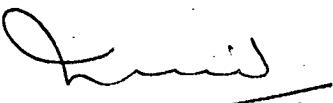
3. Shri Haridas, learned counsel for the respondents on the other hand argued that, the parameters required for granting stepping up of pay of a senior on par with his junior having not satisfied in this case, the applicant is not entitled for the reliefs. It has been held by the Apex Court in Union of India vs. Swaminathan (1997 (7) SCC 690) that if a junior gets higher pay on account of adhoc officiation on higher post, the senior is not entitled to stepping up of pay and therefore, the applicant's claim has no support of law.

4. On a careful scrutiny of the material on record and on hearing the counsel we find little merit which calls for admission of this O.A. and further deliberation. The Apex Court has clarified that, a senior would get stepping up of pay only if all the conditions for such dispensation are satisfied and that, if a junior is getting more pay on account of

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increments or fixation of pay on account of temporary officiation on higher post, the senior's pay cannot be stepped on par. The situation in this case is that the junior started getting higher pay than the applicant on account of his adhoc promotion while the applicant was not promoted. In the result the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 23rd June 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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