

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 510 of 2002

Tuesday, this the 17th day of August, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. K. Kandan,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
2. K.V. Sivaraman,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam Marshalling Yard, Kochi-20
3. C. Santhakumaran,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
4. R. Chami,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
5. P.X. Francis,
Technician-I/Train Lighting,
Southern Railway,
Cochin Harbour Terminus, Kochi-3
6. M.P. Divakaran,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
7. T.J. Joseph George,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
8. S. Nachimuthu,
Senior Technician/Train Lighting,
Southern Railway,
Ernakulam Marshalling Yard,
Kadavanthara, Kochi-20
9. M.R. Sadanandan,
Technician-I/Power,
Southern Railway,
Thrissur.

10. P.A. Mohanan Nair,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
11. M.K. Sankarankutty,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam South, Kochi-16
12. V. Ramaswamy,
Technician-I/Train Lighting,
Southern Railway,
Thiruvananthapuram-14
13. S. Ramu,
Technician-I/Train Lighting,
Southern Railway,
Thiruvananthapuram-14
14. S. Ajayakumar,
Technician-I/Train Lighting,
Southern Railway,
Thiruvananthapuram-14
15. K.R. Mohan,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam Marshalling Yard,
Kadavanhara, Kochi-20
16. P.S. Gopi,
Technician-I/Train Lighting,
Southern Railway,
Ernakulam Marshalling Yard,
Kadavanhara, Kochi-16
17. B. Venugopalan,
Technician-I/Train Lighting,
Southern Railway,
Thiruvananthapuram-14

....Applicants

[By Advocate Shri P.K. Madhusoodhanan]

Versus

1. Senior Divisional Personnel Officer,
Southern Railway,
Thiruvananthapuram-14
2. Union of India, rep. by its
General Manager, Southern Railway,
Park Town, Chennai-3

....Respondents

[By Advocate Smt. Sumathi Dandapani]

The application having been heard on 17-8-2004, the
Tribunal on the same day delivered the following:

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

This is a peculiar case in which the award of a higher pay scale resulted in a temporary reduction at the initial fixation of the pay of the applicant due to the difference in rate of increment. The facts necessary for disposal of this application can be stated as follows:

2. All the applicants, who were Highly Skilled Grade-I in the scale of pay of Rs.1320-2040, were on implementation of the report of the Vth Central Pay Commission initially granted the replacement scale of pay of Rs.4000-100-6000. The pay of some of them happened to be fixed with effect from 1-1-1996 at Rs.5200/-. However, at the demand of the staff side that the skilled staff should get better pay scale, it was decided that the Highly Skilled staff in the scale of pay of Rs.1320-2040 in the pre-revised scale would get a pay scale of Rs.4500-7000. On the basis of this decision, the pay of the Highly Skilled Artisans was refixed in the scale of pay of Rs.4500-7000 on the basis of the option already exercised by them to come over to the Vth Central Pay Commission scale. In that process there has been variations to the detriment of some of the individuals. In the case of those whose pay on 1-1-1996 in the scale of Rs.4000-100-6000 was fixed at Rs.5200/-, when refixed in the scale of Rs.4500-125-7000 it came to be fixed at Rs.5125/-. On periodical increments before the refixation was made by Annexure A2 order dated 11-3-1999, some of the applicants were getting higher pay than what they got in the scale of Rs.4500-7000. The overpayments were to be recovered. Applicants submitted representations stating that the coming over to a higher pay scale should not result in reduction of

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their pay fixed earlier and that the proposed refixation resulting in loss to the applicants and recovery having been made without notice is unsustainable. Representations made by 10 persons among the applicants were disposed of by Annexure A9 order dated 11-2-2002 telling them that the fixation in the scale of Rs.4500-7000 had been made correctly in accordance with the formula contained in the scheme with illustration and explaining that the difference was on account of the variation in the increments in the two scales. Aggrieved by that the applicants have jointly filed this application seeking the following reliefs:-

- "(a) Set aside Annexures-A9, A10 and A11;
- (b) Set aside Annexure-A2 in so far as it fixes the pay of the applicants in the scale of pay of Rs.4500-125-7000 disadvantageous to them than that were granted to them in the scale of pay of Rs.4000-100-6000;
- (c) Declare that the applicants are eligible to get pay fixation in scale Rs.4500-125-7000 not less than that of the fixation granted to them in scale Rs.4000-6000 with effect from 1.1.96 and fix their pay with effect from 1.1.96 in scale of Rs.4500-125-7000 not less than the pay they have been granted and paid in the scale of pay of Rs.4000-100-6000, and grant and disburse the arrears arising therefrom to the applicants, at the earliest;
- (d) Declare that the applicants are eligible to get higher pay in the scale of Rs.4500-125-7000 or at least equal to the pay that has been granted and paid to the employees in the erstwhile scale of Rs.1200-2040, who are now in the scale of pay of Rs.4500-125-7000, applying table 11;
- (e) Issue necessary directions to the first respondent restraining him from recovering the arrears of pay already paid to the applicants in the scale of Rs.4000-100-6000;
- (f) Costs; and
- (g) Grant such other reliefs as this Hon'ble Tribunal deems fit and proper."

3. Respondents seek to justify the refixation of pay as also the proposal to effect recovery of overpayments on the ground that the applicants' pay has been fixed in the scale Rs.4500-7000 on the basis of their option to come over to the revised pay scale, which did not call for any notice and that the difference in fixation occurred on account of the fact that the increment in the scale of Rs.4000-6000 was Rs.100/-and that in the scale of Rs.4500-7000 was Rs.125/-. Though the present fixation would result in temporary loss to the applicants, ultimately it is highly beneficial to them and cannot be faulted as fixation has been made on their options. The application has no merit, contend the respondents.

4. We have very carefully perused the pleadings and the other materials available on record and have heard the arguments of the learned counsel. The counsel of the applicants vehemently argued that it is not possible to fix an officer's pay at a lower stage when he is given a higher pay scale than the existing one. The learned counsel of the respondents, on the other hand, argued that when there is a stage in the higher scale, immediately above the emoluments worked out which is less than the stage in the lower pay scale a reduction is likely and that is what happened in this case.

5. We have considered the arguments of the learned counsel in the light of the factual backdrop. The pay of the applicants as on 1-1-1996 in the scale of Rs.1320-2040 was Rs.1680/-. After adding Rs.2486/- DA as on 1-1-1996 (at index level 1510), IR-1 Rs.100/-, IR-2 Rs.168/-, the existing emoluments worked out to Rs.4434/-. Adding 40% weightage of basic pay (i.e. Rs.672/-), the total figure worked out to

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Rs.5106/-. When the pay was fixed in the scale of Rs.4000-100-6000, the next stage after Rs.5106/- was Rs.5200/-. Hence, the pay was fixed in the lower scale of Rs.4000-100-6000 at Rs.5200/-. However, in the pay scale of Rs.4500-125-7000, the next stage after Rs.5106/- was Rs.5125/-. Hence, the pay had to be fixed at Rs.5125/-. We find that the reduction happened to be on account of the difference in the rate of increment. [When the higher pay scale was given with effect from 1-1-1996, the pay had to be fixed according to that scale. We find that the refixation made in Annexure A2 and what is stated in Annexure A9 are fully correct and unexceptionable. Therefore, there is no legitimate grievance of the applicants which calls for redressal.]

6. In the light of what is stated above, finding no merit, the Original Application is dismissed leaving the parties to bear their respective costs.]

Tuesday, this the 17th day of August, 2004

H. P. DAS

ADMINISTRATIVE MEMBER

A. V. HARIDASAN

VICE CHAIRMAN

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