

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA NO. 529/05

TUESDAY THIS THE 13th DAY OF FEBRUARY, 2007

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

Jose Paul Pulikken S/o Paul Pulicken
Retired ADME, Southern Railways
Anugrah, I 31/1003-A, Kunjambava Road
Ponnurunni, Vytila PO
Ernakulam

Applicant

By Advocate Mr. P. Ramakrishnan

Vs.

- 1 Union of India represented by
the Secretary, Railway Board,
New Delhi.
- 2 The General Manager,
Southern Railway
Head Quarters Office ParkTown,
Chennai
- 3 The Chief Mechanical Engineer,
Southern Railway, Park Town
Chennai.

Respondents

By Advocates Smt. Sumathi Dandapani, Senior Advocate and
Ms. P.K. Nandini

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The facts submitted by the applicant in the OA are as follows:-

The applicant retired from service as an Assistant Divisional

Mechanical Engineer (ADME for short) from the Southern Railway, Trivandrum Division on 30.4.2004 upon attaining the age of superannuation. The post is a Group B Gazetted post in the scale of Rs 7500-12000. The Vth Pay Commission recommended a revised scale of Rs 8000-13500 in respect of Group-B services of the Accounts Department in the Railways. In order to extend the said benefit to Gr. B services in all other organised railway services, the Revised Pay Rules were amended with effect from 25.4.2003 making the scale of Rs 8000- 13500 applicable to 80% of the Gr. B officers on the roll vide Annexure A1 order of the Railway Board. The applicant had been promoted as ADME in the scale of Rs 7500-12000 on 20.3.99, therefore he had completed 3 years in the scale on 20.3.2002 and had become eligible for the higher scale w.e.f 25.4.2003 in terms of Annexure A1. The respondents placed 16 officers of the Mechanical Department including the applicant's juniors in the higher scale vide Annexure A2 order. Aggrieved by his non-inclusion in the said Annexure A2 order, the applicant made a detailed representation to the 3rd respondent on 6.11.2004. But the 2nd respondent had informed the applicant that a committee had assessed his performance and had not recommended his name for grant of the higher scale. According to the applicant, his performance in the years 1999-2000, 2000-01 and 2001-02 had been rated as "Very Good" and no adverse remarks had been communicated to him for the above period. Therefore the denial of placement in the higher scale is clearly unsustainable.

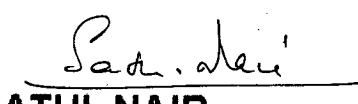
2 Per contra, the respondents have averred that it is true that in pursuance of the recommendations of the Vth Pay Commission, 80% of Gr. B posts of Assistant Accounts Officers were placed in the higher scale of Rs 8000-13500, and this benefit was later extended to all organised railway services vide Railway Board Notification No RBE 69/2003 dated 25.4.2003. Railway Board also issued a communication delineating the procedure for allotment of higher scale vide Annexure R-2 which provides that a Gr.B official with 3 years of service is eligible to be considered for placement in the higher scale. It further mandates that the same procedure of assessment of suitability as has been prescribed for ad hoc promotion of Gr. B officers to senior scale will be adopted by the Committee. The recommendations of the Committee will thereafter be placed for the approval of the General Manager. Accordingly names of 20 Gr. B officers who were officiating in the senior scale had been placed in the higher scale and as per the recommendations of the Committee, 19 Gr. B officers have been approved and another 9 officers have been recommended by the Committee. The Committee has also considered and assessed the applicant's fitness on the basis of his ratings in the ACRs but has not recommended his name for inclusion. The Committee did not find him 'FIT' after considering his Confidential Reports. Hence according to the respondents, he has only a limited right to get considered in the selection process and no automatic right to the upgraded scale which was sanctioned in lieu of promotion.

3 We have heard the representatives of the Learned counsels of Sri P.Ramakrishnan for the applicant and Smt Sumathi Dandapani for the respondents. We have also perused the pleadings on record.

4 The procedure for placement of the Gr. B officers in the upgraded scale of Rs 8000-13500 against the 80% quota is to be made by adopting the principle of seniority cum fitness by a process of selection as delineated in the Annexure R-2 memorandum. It did not envisage an automatic elevation and the selection procedure had to be undergone. The applicant has only a right to be considered and he was afforded that opportunity. The Selection Committee, as averred by the respondents did not find him fit on a perusal of his overall record of performance. There are no allegations regarding bias or prejudice against the Selection Committee. We therefore do not find any reason to interfere with the placements made by the respondents in the Annexure A-2 order and the reply conveying the said decision to the applicant in Annexure A-4. OA is accordingly dismissed.

Dated 13.2.2007.


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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