

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.532/93

Monday, this the 21st day of February, 1994.

SHRI N DHARMADAN, MEMBER(J)

SHRI S KASIPANDIAN, MEMBER(A)

K Narayanan,
(Retired PWM),
Kanakkan Parambil,
Naduvanoor P.O.
Chowara, Alwaye.

- Applicant

By Advocate Mr. P Sivan Pillai

Vs.

1. Union of India through
General Manager,
Southern Railway,
Madras-3.
2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum-14.

- Respondents

By Advocate Mr. Thomas Mathew Nellimoottil

O R D E R

N DHARMADAN, MEMBER(J)

Applicant is a Permanent Way Mistry. He has approached this Tribunal under Section 19 of the Administrative Tribunals Act for a direction to the respondents to step up his pay on par with his junior Mr C Narayanan Achari.

2. Earlier when the applicant filed OA-855/91, it was heard and disposed of as per Annexure-A6 judgement dated 2.11.1992 with specific observation that Mr Narayanan Achari was promoted on adhoc basis in 1982 and the applicant has a genuine cause of action for getting stepping up of his pay with effect from 18.11.1988 when Annexure-A4 was passed. However, the respondents did not consider his claim for stepping up of the pay on a par with his junior in

accordance with law. According to the applicant, the directions in the judgement, Annexure-A6 were not fully complied with and hence the impugned order Annexure-A7 is illegal and liable to be set aside.

3. The operative portion of the impugned order is extracted below:

"Even though you were also considered for adhoc promotion as PW Mistry during 1982, you could not be promoted as disciplinary action for major penalty charges were pending against you. In that circumstances only your junior Shri Narayanan Achary was promoted on adhoc basis which was subsequently regularised at the time of your promotion as PW Mistry. This being the case stepping up of pay on par with the pay of Shri Narayanan Achary is not permissible."

4. The only reason for rejecting the request for stepping up of the pay is that the applicant was facing a major penalty charge during 1982 when his junior Mr Narayanan Achari was promoted on adhoc basis. This reason cannot be supported. Annexure-A8 order passed by the AEN on 30.6.1983, shows that the period of suspension of the applicant from 25.5.1982 to 16.6.1982 was regularised and treated as leave due to him. The applicant submitted that disciplinary proceedings contemplated against him was dropped when he brought to the notice of the disciplinary authority that he was not on duty on the date of the alleged offence levelled against him. Thus pursuant to the suspension, no further action was taken against the applicant. Consequently Annexure-A8 order was passed regularising the period making him regular employee having no disadvantage for getting benefit of stepping up of the pay on par with his junior Mr Narayanan Achari. Under these circumstances, there is no legal justification for denying stepping up of pay as claimed by the applicant.

5. The respondents did not state in the reply any other objection. Mr Narayanan Achari was promoted on adhoc basis in

1982 but subsequently he was regularised as PW Mistry. The applicant is admittedly senior to Mr Narayanan Achari having no bar or legal impediment for getting higher pay on par with the pay drawn by Mr Achari from 1982 onwards. If at all there was any bar on account of the suspension, the effect of which was removed when Annexure-A8 was passed on 20.6.1983. Hence the reason stated in the impugned order Annexure-A7 has no basis.

6. In the light of the above discussion, we see no reason for denying the claim of the applicant for getting higher scale of pay on par with Mr Narayanan Achari.

7. Having regard to the facts and circumstances, we are of the view that the applicant has made out a case. Accordingly, we quash Annexure-A7 and direct the respondents to grant stepping up of pay to the applicant on a par with his junior, Mr Narayanan Achari in the scale of Rs.1400-2300 from the date of promotion of his junior with all consequential benefits, including the fixation of pension taking into account his higher scale. The directions shall be complied with including the disbursement of arrears to the applicant within a period of six months from the date of receipt of a copy of this order.

8. The OA is allowed as above. No costs.

Dated, the 21st of February, 1994.


(S KASIPANDIAN)
MEMBER(A)


(N DHARMADAN)
MEMBER(J)

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