

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 585 of 2009

Friday, this the 19th day of March, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

K.N. Subramanian, aged 60 years,
S/o. K. Namachivayam, (Retd. Senior
Loco Inspector, Southern Railway, Erode Jn.),
Residing at Door No. 401, Ramnagar First Street,
L. Pudur Post, Erode – 638 002.

.....

Applicant

(By Advocate – Mr. Mohana Kumar)

V e r s u s

1. Union of India, rep. by the Secretary to the Government of India, Ministry of Railways, Rail Bhavan, New Delhi.
2. The Chief Personnel Officer, Southern Railway, Head Quarters Office, Park Town P.O., Chennai-3.
3. The Senior Divisional Personnel Officer, Southern Railway, Palghat Division, Palghat.
4. The Divisional Railway Manager, Southern Railway, Palghat Division, Palghat.

.....

Respondents

(By Advocate – Mr. Thomas Mathew Nellimoottil)

This application having been heard on 19.3.2010, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice K. Thankappan, Judicial Member -

The applicant has filed this Original Application with a prayer for a direction to step up his pay scale with that of his junior one Mr.



Viswanathan.

2. The case of the applicant rests on the seniority list Annexure A-3 which would show that it is a provisional seniority list of Loco Running Supervisors in which the applicant is shown as senior to Mr. R. Viswanathan at Sl. No. 5 in the list, whereas R. Viswanathan is shown at Sl. No. 53. The further case of the applicant is that he was promoted or appointed as Loco Running Supervisor with effect from 7.5.1990 whereas R. Viswanathan was inducted rather promoted to the Loco Running Staff Supervisor cadre only on 6.12.1995. But R. Viswanathan was drawing higher pay than that of the applicant. A further case also has been set up by the applicant that if Annexure A-5 order of the Railway Board is implemented properly which is intended for setting aside the anomaly crept in the fixation of pay of Loco Supervisory Staff appointed prior to 1.1.1996 the applicant's pay will be equated with that of his junior R. Viswanathan. The further case of the applicant is that actually it has happened due to the fixation of the pay scale when R. Viswanathan was inducted into service and fixing his pay with the Loco Running allowances on the revised rate, whereas that of the applicant his pay was fixed calculating with the pre-revised rate of running allowances.

3. This Original Application has been admitted by this Tribunal. In pursuance to the notice issued, the respondents have filed a reply statement taking the stand that as the applicant was appointed on 7.5.1990 as Loco Running Supervisor in the channel of his promotion whereas R.



Viswanathan was appointed rather inducted in the cadre of Loco Running Supervisor from a different channel and hence the claim of the applicant is not allowable. This stand is in support of Annexure A-8 order passed by the respondents.

4. We have heard the counsel appearing for the applicant Mr. Mohana Kumar and also counsel appearing for the respondents Mr. Thomas Mathew Nellimoottil. We have also perused the documents now produced before this Tribunal. From the stand taken in the counter affidavit and the averments in the Original Application and also on the contentions raised by the counsel appearing for the parties, the question to be decided is that whether the applicant is entitled to the benefits which he claimed before this Tribunal on stepping up of his pay with that of his junior Mr. R. Viswanathan. Learned counsel appearing for the applicant submits that since R. Viswanathan was inducted in the Loco Running Supervisor cadre only on 6.12.1995 he is junior to the applicant and that apart Annexure A-3 gradation list of Loco Running Supervisors published as on 1.6.2002 would also show that R. Viswanathan is junior to the applicant. If so, at any rate the pay fixed for R. Viswanathan shall be applicable to the applicant. In this context the counsel also relies on the fact that the stand taken in Annexure A-5 order of the Railway Board that certain anomaly has crept in while fixing the pay scale of Loco Running Supervisors who were appointed after 1.1.1996 and Annexure A-5 would show how the stepping up of anomaly can be corrected. If that order is implemented properly it would show that R. Viswanathan was appointed and his pay was fixed taking into



consideration of the running allowances with the revised rate whereas that of the applicant was fixed in the pre-revised scale. In the above circumstances the counsel submits that the applicant is entitled for the relief which he claimed. We have also heard the counsel appearing for the respondents who relies on the reply statement and also supporting Annexure A-8 order.

5. We have considered this issue and it is to be noted that the applicant was appointed as Loco Running Supervisor on 7.5.1990 with a pay scale of Rs. 2000-3200/- and Shri R. Viswanathan was appointed on 6.12.1995 with same pay scale. If so, there shall not be any difference between the pay scale of the applicant with that of R. Viswanathan, unless it is due to the wrong calculation or adding of the running allowance to that of the pay scale of R. Viswanathan. It is an admitted fact that Viswanathan was inducted in the service only on 6.12.1995 and he was also on the same pay scale of the applicant. It is also fact that as per Annexure A-5 order it is pointed out that some anomaly has been crept in while fixing the pay scale of Loco Running Supervisors who were appointed prior to 1.1.1996 and pay was fixed after 1.1.1996. It is clear from the facts now revealed that both the applicant and Viswanathan was in the same pay scale and they were inducted in different dates namely Viswanathan was appointed subsequently to the applicant, if so, why the anomaly happened. If such anomaly is happened it will be only on the reason that the calculation or refixing of pay of Viswanathan was with that of the running allowances in the revised rate, whereas that of the applicant was in the pre-revised rate. If so, the reasons stated in Annexure

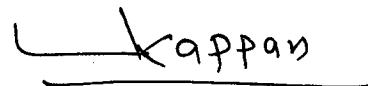


A-8 is not sustainable as the method of appointment or the different channel of their appointment and there is no evidence before this Tribunal or even such a stand is taken in the department that the applicant and Mr. Viswanathan were having different services or Viswanathan has got more service than that of the applicant in inducting the service period for fixation of pay that is clear from the fact that Viswanathan and applicant were on the same pay scale as on the date of appointment onwards and on 1.1.1996 they were also getting the same pay.

6. In view of the above the OA is allowed and Annexure A-8 is quashed. The respondents are directed to consider this question of anomaly crept in the fixation of pay scale of the applicant with that of Mr. Viswanathan in the light of Annexure A-5 and shall pass appropriate orders within a reasonable time at any rate within 60 days from the date of receipt of a copy of this order and consequential benefits if available to the applicant shall also be granted to him. Ordered accordingly. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

"SA"