

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.61/94

Thursday, this the 6th day of October, 1994.

CORAM

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

A. Govindan,
Good Shed Porter,
Kalamasseri. ... Applicant.

By Advocate Mr R Santhoshkumar.

Vs.

1. Union of India through the Secretary, Ministry of Railways, Railway Board, New Delhi.
2. The Divisional Personnel Officer, Southern Railway, Trivandrum-14 ... Respondents.

By Advocate Mr Thomas Mathew Nellimootil.

O R D E R

P SURYAPRAKASAM, JUDICIAL MEMBER.

Applicant was initially appointed as a Cabinman in the scale of ₹ 950 - 1025 and presently drawing ₹ 1130/-. In the periodical medical examination, he was decategorised and later appointed as a Good Shed Porter. In the lower grade, his pay has been fixed in the maximum at ₹ 1025/- in the scale of ₹ 725- 1025. This action of the respondents has been questioned by the applicant stating that his pay ought to have been fixed at ₹ 1130/- which he was drawing last or atleast ₹ 1025/- and the balance as a special pay, and thus filed O.A.968/93 for the said relief. The said O.A. was disposed of at the admission stage itself directing Respondent-2 to consider the representation of the b

applicant and pass orders bearing in mind Annexure A1 letter of the Railway Board. Pursuance of the same, respondents passed an order rejecting his claim which has been marked as Annexure A4 under the present O.A. The said order rejecting his claim has been challenged under the present O.A. In para 5 of the application, the applicant contended as under:

"The staff medically declassified on account of periodical medical examination does not fall under the group 'declassification arising out of natural causes'!"

2. Applicant relied on Annexure A1 wherein the recommendations of the Tribunal as well as the Board's comments para were mentioned under which/3(5) mentions causes which lead to declassification was grouped under various clauses. However, the applicant has not mentioned either in the representation or in the application to the effect that to which group or category he belongs. Clauses 8(a), (b) and (c) mentions about pay fixation in respect of the declassified employees.

3. Respondents submitted that the applicant himself has stated that he does not come under category-I and even if it comes, it may be applicable only to Running Staff and as such Annexure A4 order is in order. Further more, in the reply statement respondents specifically stated that in respect of the declassification all the pay fixation of the medically declassified employees are concerned, Rule 1313(a) & (b) of Chapter XIII of the Indian Railway Establishment Manual Vol.I 1989 Edition which is extracted below applies:

"1313.Fixation of pay.

(On absorption in an alternative post, the pay of the Railway servant declassified on account of circumstance which did not arise out of and in *le*

the course of his employment will be fixed at a stage corresponding to the pay previously drawn in the post held by him before decategorisation. If there is no such stage in the post in which he is absorbed, he may be given the stage just below the pay previously drawn by him. For running staff, the fixation will be based on basic pay plus a percentage of such pay in lieu of running allowance as may be in force.

(b) In cases of decategorisation under circumstances, arising out of and in the course of employment the pay of a decategorised employee (in the case of running staff, pay treated as emoluments in lieu of running allowance) drawn before decategorisation should be protected in the absorbing grade and if it exceeds the maximum of the absorbing grade the difference may be allowed as personal pay to the absorbed in future increments/ increases in pay. Other allowances such as Dearness Allowance, City Compensatory Allowance, House Rent Allowance drawn by a medically decategorised employee should be allowed on pay plus personal pay as admissible in the absorbing grades."

Respondents further mentioned that in the medical examination applicant was found unfit, in the required medical classification of the post in which he was working, but found fit only in lower medical classification i.e., BI and below. Therefore, he was considered for alternative appointment as Good Shed Porter in the scale of ₹ 775 -1025 at ₹ 1025/-.

4 Applicant contended that Annexure A4 order wherein it is indicated that Annexure A1 is applicable only to running staff is not correct, and at this stage I find it unnecessary to consider whether Clause 8(b) of Annexure-I is applicable to running staff alone. Applicant himself has specifically stated that it does

come under 5(1) of Annexure A-1, and once the applicant himself is not sure under what ground he was medically decategorised and none of the parties produced the order which made the applicant medically decategorised, and in the ~~circumstances~~, it is not possible to find out whether Annexure A-1 is applicable in this ^{case} at all and deal with the application as such.

5 Applicant finally mentioned that he may be given a chance to make a further representation to the concerned authorities, incorporating the order which made him medically decategorised as well as to the category to which he belongs either in Annexure A1 order or in the Department's notification for, the applicant is ignorant of the provisions as such. In fact, under Annexure A2 dated 15.12.92 applicant states:

"I hear that there is a provision to give as personal pay, the difference in the basic pay I was drawing formerly, and the basic pay now I am drawing in the lower scale."

The respondent's counsel also is not seriously objecting to it.

6 In view of the circumstances, I feel that the ends of justice will be met, if a further chance is given to the applicant to make a representation on the lines aforesaid to the concerned authorities within a month from the date of receipt of the order, and if a representation is so made, the concerned authorities will dispose of the same giving detailed reasons within a period of two months from the date of receipt of such representation.

7 In the result, Annexure A4 is quashed, and application is disposed of as aforesaid. No costs.

Dated the 6th day of October, 94.

P. SURYAPRAKASAM
JUDICIAL MEMBER

6/10/94.

LIST OF ANNEXURES

Annexure A1 : True copy of the letter No.78/E/RLT/4
dt.22.6.79 issued by the Railway Board.

Annexure A2 : True copy of the representation dt. 15.12.1992
submitted by the applicant to the Divisional
Personnel Officer, Trivandrum (2nd respondent)

Annexure A-4 : True copy of the letter No.V/P.536/II/Porter/
SCP/Vol.V. dt. 15.11.93 issued by the
Divisional Personnel Officer. (2nd respondent)

• • •