

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. Nos. 605/96 and 606/96.

.....
Friday this the 13th day of March, 1998.

CORAM:

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

O.A. 605/96

N. Thirumalai,
Permanent Way Inspector,
Southern Railway, Sivakasi,
residing at:
Railway Quarters,
Sivakasi,
Kanniyakumari District,
Tamil Nadu.

(By Advocate Shri TC Govindaswamy)

.. Applicant.

Vs.

1. Union of India through
the Secretary to the
Government of India,
Rail Bhavan,
New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras - 3.
3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras - 3.
4. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum - 14.
5. The Divisional Personnel Officer,
Southern Railway,
Madurai Division, Madurai. .. Respondents

(By Advocate Shri Thomas Mathew Nellimootttil).

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O.A. 606/96

R. Murali,
Inspector of Works,
Southern Railway,
Erode, residing at:
Railway Quarters No. 464-A,
Railway Colony,
Erode - 2.

.. Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through the
The Secretary to the
Government of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras-3.
3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras - 3.
4. The Divisional Personnel Officer,
Southern Railway,
Palghat Division, Palghat. .. Respondents

(By Advocate Shri James Kurien)

The applications having been heard on 13th March 1998,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Since both these Original Applications involve
identical questions, ^{they} were heard together and ~~are~~ disposed of
by a common order. The applicant in O.A. 605/96 seeks to
quash A-7 and to direct the respondents to extend the
benefits of A-1 order to him also with consequential benefits.
The reliefs sought by the applicant in O.A. 606/96 are
identical except for the difference that here what is sought
is to quash A-5.

2. The applicants acquired degree in Engineering while in service in the month of December, 1988. As per A-1, earlier there was an incentive scheme which granted two increments to those who acquired higher technical qualifications while in service. That came to an end on 30.6.88 as seen from A-1 itself. Thereafter, on 29.5.89, A-1 scheme was promulgated modifying the earlier scheme.

3. Applicants obtained degree in Engineering in December, 1988 after the earlier scheme came to an end on 30.6.88 and before A-1 was issued. The question that arises for consideration is whether the earlier or the later scheme will govern the cases falling in the limbo region between 1.7.88 and 29.5.89. In O.A. 1600/93, this Bench of the Tribunal has held that there is nothing unreasonable in thinking that A-1 came into force filling the vacuum which otherwise might have existed after the earlier scheme came to an end on 30.6.88.

4. According to the respondents, the finding in O.A. 1600/93 of this Bench of the Tribunal is "in personam" and it cannot be extended to others, since the Board's letter dated 4.9.90 was not quashed by this Bench of the Tribunal.

5. In D. Radhakrishnan and another Vs. Union of India and another ((1995) 31 ATC 615) it has been held by the Madras Bench of this Tribunal that this Bench of the Tribunal has considered the qualification prescribed by the Railway Board dated 4.9.90 in O.A. 526/92 and O.A. 926/92 and after considering the respective contentions, quashed the same. So, there is no grace on the part of the respondents in saying that the Railway Board's letter dated 4.9.90 has not been quashed. If what is meant by the respondents is that the letter dated 4.9.90 has not been quashed in O.A. 1600/93, we have nothing but to say that it is less said the better about it. As far as the stand of

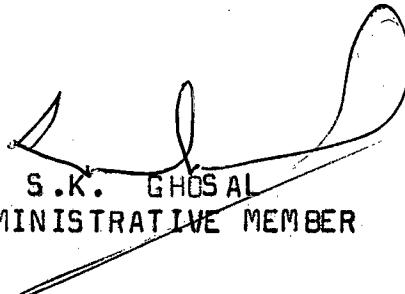
the respondents in saying that the order of this Bench of the Tribunal in O.A. 1600/93 is "in personam", it cannot be accepted for a moment for the reason that in Sreedharan Kallat Vs. Union of India and others (1995 SCC (L&S) 960) it has been held that in service matters where validity or interpretation of rule is concerned any order passed by the Courts which achieves finality is binding on the department.

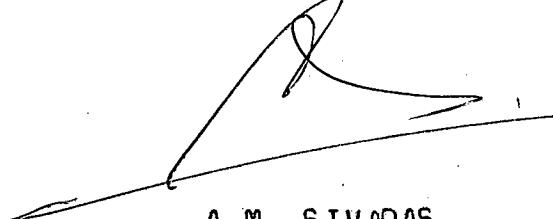
6. In O.A. 606/96 R-2 is pressed into service by the respondents. R-2 is a copy of Railway Board's letter dated 2.1.96. In O.A. 543/97 before this Bench of the Tribunal it was submitted by the learned counsel for the respondents therein that in view of change in the policy of the Railway Board it has been decided to extend the benefit to group 'C' employees in the Railways who acquire the qualification prior to 2.1.96 and therefore, the applicant will be granted this advance increments from 10.10.95 as prayed by him on refund of Rs.10,000/- which was granted to him in lieu of advance increments. So, what is the position of R-2 at present is very much clear.

7. The change in the policy of the Railway Board as submitted by the learned counsel for the respondents in the said O.A. is contained in Railway Board's letter dated 12.9.97 which makes the position quite clear. There it is specifically stated that those who have already drawn incentive in the shape of increments prior to the date of commencement of this new scheme will not be eligible for incentive in the new scheme, that they may, however be allowed to continue to draw the increments already granted to them and that those employees who have passed the relevant examinations prior to 2.1.96 but have not availed incentive in the form of increments would also be allowed incentives in the earlier increment-based incentive scheme. So, the position is very clear and relying on R-2, the respondents cannot resist the claim of the applicant.

8. Accordingly, both the OAs are allowed. A-7 in O.A. 605/96 and A-5 in O.A. 606/96 are quashed. Respondents are directed to extend the benefit of A-1 order to the applicants in these Original Applications with consequential benefits. The applicant in O.A. 605/96 is entitled to costs Rs.250/-.. No costs in O.A. 606/96. This shall be done by the respondents within three months from the date of receipt of a copy of this order.

Dated 13th March, 1998.


S.K. GHOSAL
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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