

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.67/2002

Monday this the 29th day of March, 2004

C O R A M

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR H.P.DAS, ADMINISTRATIVE MEMBER

P.T.Joymon
Shunter
Coimbatore Junction
Residing at :
Kariamparambil House,
Meleppuram
Olavakkode, P.O
Palghat District : Applicant

[By Advocate Mr.T.C.G.Swamy]

Vs.

1. The Union of India represented by
the General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.
Chennai - 3
2. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Chennai - 3.
3. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat. : Respondents

[By Advocate Mrs.Rajeswari Krishnan]

The application having been heard on 29.03.2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant presently working as Shunter in the
Palghat Division of Southern Railway while working as Diesel
Assistant in the scale of Rs.3050-4590 claims that although he
had been made to officiate as Goods Driver in the scale of
Rs.5000-8000 continuously for a period from 29.12.1995 to

19.06.1998 and has therefore become entitled to fixation of pay in the higher post in terms of Rule 913 (I) (b) of the Indian Railway Establishment Manual, even after the direction contained in OA 80/1998 he has been given only the higher scale for four spells and higher allowances for the rest of the period on the ground that his officiation as Driver exceeds 30 days at a stretch only during the four spells.

2. The applicant aggrieved by Annexure A-I and A-2 order has filed this Original Application. He claims excepting the days on which he was on rest or on leave during the period from 29.12.1995 to 19.06.1998 he has been continuously officiating as Goods Driver and therefore, non grant of pay in the scale of Rs.5000-8000 for the entire period from 29.12.95 to 19.6.1998 is unjustified.

3. The applicant has, therefore, sought the following reliefs:-

- (a) Call for the records leading to the issue of Annexures A-1 and A-2 and quash the same to the extent they deny the applicant the scale of pay of Goods Driver i.e Rs.5000-8000 for the entire period from 29.12.1995 to 19.06.1998;
- (b) Direct the respondents to grant the applicant the scale of pay Rs.5000-8000 (Goods Driver) for the entire period from 29.12.1995 to 19.06.1998 with all consequential benefits arising therefrom, within a time limit, as may be found just and proper by this Hon'ble Tribunal;
- (c) Award costs of and incidental to this applicant;
- (d) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

4. The respondents in their reply statement contend that in terms of Rule 913 (I) (b) of the Indian Railways Establishment Manual running staff put to officiate in higher running post are to be granted the scale of higher post only when the continuous spell of officiation exceeds 30 days and for the remaining spells, what is admissible, only higher running allowance. The case of the applicant has been considered in the light of the rules and in accordance with the details given by the Crew Controller and finding that the applicant had officiated as Goods Driver continuously exceeding 30 days only for four spells as stated in Annexure A-I order he was granted the due benefits contend the respondents.

5. The applicant has filed rejoinder in which it has been stated that the contention of the respondents that the applicant was not officiating continuously as Goods Driver from 29.12.1995 to 19.06.1998 is not correct. Only excepting, the rest or leave, the applicant has been continuously officiating as Goods Driver according to him.

6. The applicant has not been able to establish that he had been continuously officiating as Goods Driver, during 29.12.1995 to 19.6.1998. The impugned orders Annexures A-1 and A-2 are based on statements and reports of Crew Controllers, for the days of continuous officiation exceeding 30 days at a stretch the entitled higher scale has been given to the applicant. Mere assertion of the applicant that he continuously officiated is not enough. No order at all has been produced by the applicant. There is no reason to hold that the due benefit was denied to the applicant.

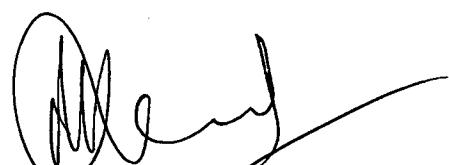
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In the light of what is stated above, we do not find any merit in the Original Application. Therefore, we dismiss the same with no order as to costs.

Dated, the 29th March, 2004.

H.P.DAS

ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

vs