

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 69
C. A. No.

1991

DATE OF DECISION 23.4.92

N. Raghava Panicker Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the
General Manager, Southern Railway, Respondent (s)
Madras-3 and others

Smt. Sumathi Dandapanai Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is a retired Fitter Grade-I in the scale of 380-560 under the Area Supervisor, Mechanical Southern Railway, Quilon. His grievance is against the refusal of the Railway to grant him the benefit arising out of the promotion based on Annexure-I in computing the pensionary benefits due to him.

2. While working as Fitter Grade-I he was promoted as Chargeman Carriage Amenity in the scale of Rs. 425-700 against existing vacancy at Trivandrum as per Annexure A-1 order dated 13.8.83. Before implementing this order, one

Shri Ayyappan Pillai and 4 others filed O.P. 7312/83 before the High Court challenging Annexure A-1 order. The High Court stayed the implementation of Annexure A-1 order by an interim order. Later, the said O.P. was transferred to this Tribunal and the Tribunal dismissed it by order dated 27.7.89 re-numbering it as TA 309/87. Annexure A-2 is the judgment. Immediately on getting copy of Annexure A-2, the applicant submitted Annexure A-3 representation dated 24.9.89 before the Divisional Manager, Southern Railway, Trivandrum for granting the benefits of the promotion by revising his pensionary benefits taking into account his promotion to the post of Chargeman-Carriage Amenity in the scale of Rs. 425-700. This has not been disposed of so far. Hence, he filed this application under section 19 of the Administrative Tribunals' Act for a direction to the respondents to grant the applicant all the benefits arising out of the promotion.

3. The applicant has stated that this ~~xx~~ being a recurring case of ~~action~~, there is no delay particularly when his representation Annexure A-3 remains undisposed of even today. Had the applicant been promoted without interference of the High Court in the O.P. filed by S/Shri Ayyappan Pillai and others, Annexure A-1 would have been implemented and he would have earned the benefit of higher scale of pay for fixing his pensionary benefits.

4. The respondents have stated in the reply statement that the applicant was appointed in the Railway as a Coal

Cooly w.e.f. 14.4.69. He retired from service w.e.f. 31.1.86. At the time of his retirement, his scale of pay was Rs. 380-560. He retired as Fitter/Highly Skilled Grade-I, he was drawing a pay of Rs. 452/- in the aforesaid scale w.e.f. 1.1.86. Based on the IV Pay Commission's report, his pay has been re-fixed at Rs. 1440 w.e.f. 1.1.86 and he has been given all benefits in the manner given below:

i) P.F.	1942.00
ii) R.Gratuity	23760.00
iii) Commutation	26862.00
iv) Encashment of leave salary	5760.00
v) group insurance	844.00 "

5. It was further submitted that the applicant was temporarily promoted to officiate as Chargeman-Carriage Amenity on Rs. 440- in the scale of Rs. 425-700 against the ^{then} ~~existing~~ vacancy. In the order itself it has been made clear that the promotion is purely on ad hoc basis and will not confer on the employee any claim for extension, continuance, seniority, etc. When he was deputed ^b for training at Training School, Quilon, he failed in the examination conducted by the Principal of the Training School. Since he had failed in the training the promotion order issued in favour of the applicant has been cancelled as per Annexure R-1. Copy of the order was issued to the applicant as per Annexure R-2 communication. They have further stated that the applicant has since been reverted as HSI in the year 1983 itself since he has not passed the prescribed training.

6. In response, the applicant has filed rejoinder and stated that the reversion itself was against the order ^b


of the High Court and the applicant had not received any communication cancelling the promotion.

7. After hearing the arguments of the counsel on both sides, we are not inclined to enter into the controversy and decide the issue at this stage because of the pendency of Annexure A-3 representation submitted by the applicant immediately after disposal of the case filed by M/s. Ayyappan Pillai and others.


8. Having regard to the facts and circumstances of the case, we are of the view that this application can be disposed of with direction to the third respondent to consider and pass orders on Annexure A-3, as expeditiously as possible, at any rate within a period of three months from the date of communication of this order. If the third respondent is not able to trace the above representation submitted by the applicant on 24.9.89, Annexure A-3 may be taken on the file and he may dispose of the same in accordance with law.

9. The application is accordingly disposed of.

10. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER

23.4.92


(S. P. MUKERJI)
VICE CHAIRMAN

23.4.92

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