

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

O.A.No. 93 of 2011

Tuesday, this the 21st day of February, 2012

CORAM:

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. S. Kulathu Iyer,
Senior Loco Inspector, Southern Railway,
Trivandrum, Residing at 'Sree Sailam'
Pappanamcode PO, Thiruvananthapuram-695018.
2. K.M. Dasappan,
Loco Inspector Ernakulam, residing at
Koipurathu Dileep Nivas, Meenadom PO,
Kottayam-686516. Applicants

(By Advocate Mr. M.P. Varkey)

versus

1. Union of India, represented by General Manager,
Southern Railway, Chennai-600003.
2. Chief Personnel Officer, Southern Railway,
Chennai-600003.
3. Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum-695014. .. Respondents

(By Advocate Ms. P.K. Radhika)

This application having been heard on 21.02.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The OA was heard and the order was dictated orally on 15.02.2012. But before the same was signed, the learned counsel for applicant submitted that in similar cases the monetary benefit was not



restricted to three years. Further, it is stepping up of pay and he has approached this Tribunal within time. Therefore, these aspects have to be highlighted. Hence we have posted this case 'for being spoken to'. After hearing both sides, we allow the OA.

2. The Original Application as originally filed there were four applicants and subsequently applicants Nos. 1 & 2 sought to remove their names from the party array which was allowed by this Tribunal. Hence, only applicants 3 and 4 remain in the array of parties as applicants and they are shown as Sl.No. 1 and 2.

3. S/Shri S. Kulathu Iyer and K.M. Dasappan while working as Goods Driver were selected as Loco Running Supervisor in 1994 as per scheme introduced by the Railway Board in 1993. Some anomalies however occurred in the working of the said scheme especially on introduction of Vth Pay Commission scales from 1.1.1996. Those who have joined as Loco Running Supervisors earlier were getting less pay and allowances than their junior who joined later. According to the applicants they being seniors among Loco Running Supervisors sought for stepping up of their pay on par with one Seran who was their junior as Goods Driver and as Loco Running Supervisor also. Earlier, OA No. 683 of 2006 was filed. During the pendency of the said OA, the Railway Board issued RBE No. 69/2007 order allowing stepping up of pay under the anomalous situation described above. Annexure A-1 is the copy of the order marked in the case. Accordingly the pay of the applicants was also stepped up on par with their junior as per memorandum dated 12.6.2008 issued by the 3rd respondent. Taking judicial notice of the said memorandum, this Tribunal closed OA No. 683 of 2006 on



15.7.2008. Subsequently, the respondents resorted to cancellation of the stepping up of pay granted to the applicants, without advance notice by an order dated 23.6.2009, inter alia ordering recovery of excess payments made. That recovery was stayed by this Tribunal in an interim order passed in OA No. 477 of 2009 filed by the applicants against the said order dated 23.6.2009. Nevertheless the 3rd respondent reduced the pay of the applicants pursuant to the order dated 23.6.2009 as per Annexure A-2 dated 16.11.2009. OA No. 477 of 2009 was allowed by this Tribunal vide its order dated 16.7.2010 quashing the cancellation of stepping up of pay and directing the respondents to restore the stepped up pay. Annexure A-3 is the copy of the order passed in OA No. 477 of 2009. When the Vth and VIth Pay Commissions were introduced the Railway Board ordered stepping up of the pay of seniors on par with the juniors in the Loco Running Supervisors cadre. Annexure A-4 is produced in the case. Such stepping up of pay was not done in the Trivandrum and Palghat Divisions. In Tiruchirappalli Division stepping up of pay of four seniors were done, names of which have been given in paragraph 4(e) of the Original Application. It is contended that T.Palaniswamy is a junior getting more pay than the seniors named therein as per memorandum dated 1/9.10.2009. In Madurai Division also stepping up of pay was attended to. According to the applicants in the case of the applicants' alone stepping up of pay was not done as was in the case of other seniors in other divisions as pointed out above. It is submitted that the applicants are entitled to stepping up of pay on par of their junior with one Shri N.B. Sasikumar. The applicants rely on Annexure A-3 as also the order passed in OA No. 1106 of 2010 wherein in similar circumstances this Tribunal directed stepping up of pay of senior on par with juniors.



4. Learned counsel appearing for the respondents submitted that stepping up of pay effected in Madurai Division has since been cancelled subsequently and the order Annexure A-3 is under challenge before the Hon'ble High Court of Kerala in OP(CAT) No. 225 of 2011 and the same is pending. It is pointed out in the reply statement that applicants were working as Goods Driver in Palaghat Division whereas the person compared with Shri N.B. Sasikumar was working as Mail Driver in the Trivandrum Division of Southern Railway. Therefore, it is not comparable.

5. In paragraph 3 of the order in OA No. 1106 of 2010 the very same contentions raised by the respondents were considered and this Tribunal followed the decision of the Coordinate Bench in OA No. 1001 of 2010 and observed in paragraph 6 as follows:-

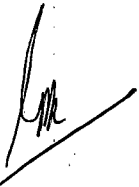
"6. In that case the specific stand of the respondents was that the posts held by the applicants in the feeder grades and those of the so called juniors were not identical. From Goods Driver, they were promoted as Loco Inspectors, while the juniors were promoted first as Mail Drivers and then only to the post of Loco Inspectors. The respondents therein referring to the decisions of the Apex Court in the cases of ESI Corporation & Anr. Vs. P.K. Srinivasamurthy & Ors. - JT 1997 (7) SC 111, Union of India Vs. O.P. Saxena (CA No. 8852 of 1996) and Surendra Kumar Vs. UOI (CA No. 1023 of 2001) submitted that the claim of the applicants cannot be acceded to. The Tribunal after considering all the aspects held that in the decision of the Apex Court in Gurucharan Singh Grewal Vs. Punjab State Electricity Board, (2009) 3 SCC 94 it was held that a senior cannot be paid a lesser salary than his junior. The Tribunal also held that the reference to O.P. Saxena's case in this case and also other decisions quoted are not material for the purpose of adjudication of the issues involved in the OA. The counsel for the applicant placed reliance in the case of Gurcharan Singh Grewal Vs. Punjab State Electricity Board - 2009 (3) SCC 94 Union of India Vs. P. Jagdish - 1997 (3) SCC 176 and Commissioner and Secretary to Government of Haryana & Ors. Vs. Ram Sarup Ganda & Ors. 2006 (12) Scale 440."

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6. In the light of the fact that identical matters have been disposed of by this Tribunal giving direction for stepping up of pay of the applicants with that of the juniors covered by OA No. 477 of 2009 (Annexure A-3) as also in OA No. 1106 of 2010 and in the absence of any difference in the present case and of the other cases referred to, this Tribunal should grant the same relief and maintain consistency. Since we do not find anything to deviate from the decisions rendered by the Coordinate Bench of this Tribunal and since facts are identical the applicants are also entitled for the similar relief.

7. Accordingly, we **allow** this Original Application and direct the respondents to pass appropriate orders stepping up the pay of the applicants and work out the arrears of pay and other allowances due to them and pay them as early as possible within a period of four months from the date of receipt of a copy of this order.

Dated, the 21st February, 2012.



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

VS