

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.100/08

Wednesday this the 26<sup>th</sup> day of November 2008

**C O R A M :**

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER  
HON'BLE Dr.K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

M.Abdul Rasheed,  
S/o.Mohammed Ismail,  
Senior Clerk, General Branch,  
O/o. Divisional Railway Manager,  
Southern Railway, Trivandrum.

...Applicant

(By Advocate Mr.Ahzar)

**Versus**

1. Union of India represented by the Secretary,  
Government of India, Ministry of Railways,  
Rail Bhavan, New Delhi.
2. The General Manager,  
Southern Railway,  
Park Town P.O., Chennai – 3.
3. The Divisional Railway Manager,  
Southern Railway, Trivandrum Division,  
Trivandrum – 14.
4. The Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Trivandrum – 14.

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 26<sup>th</sup> November 2008 the  
Tribunal on the same day delivered the following :-

**ORDER**

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER**

The applicant, now working as Senior Clerk in the Railways,  
approached this Tribunal under Section 19 of the Central Administrative  
Tribunal Act, 1985 praying that the respondents may be directed to grant

  
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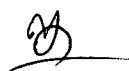
the 2<sup>nd</sup> financial upgradation to the applicant as he had completed 24 years of service on 19.1.2007. The short facts which are necessary for the consideration of the O.A are as follows :-

2. Having been appointed as a Rakshak in the Railway Protection Force (RPF in short) and having been subsequently appointed as Clerk in the grade of Rs.3050-4590/- in the General Branch, Trivandrum after completion of 12 years of service, he was allowed the 1<sup>st</sup> financial upgradation benefits under the Assured Career Progression Scheme (ACPS in short) with effect from 1.10.1999 as per the order dated 19.12.2003. As the applicant has completed 24 years of service as on 20.1.2007, he is entitled for the 2<sup>nd</sup> financial upgradation, contended the applicant.

3. After having admitted the Original Application, the respondents have filed their reply statement and in the reply statement the stand taken is that the applicant was actually appointed in the service only on 25.9.1983 and not 19.1.1983 as contended by the applicant and paragraph 10 of the reply statement reads as follows :-

"10. The averments in paragraph 4(5) that the applicant has completed 24 years of service on 20.1.2007 is not correct and hence, denied. As his date of appointment is 25.9.1983, the date of completion of 24 years of service is only 24.9.2007. As per the file noting, his date of appointment is 25.9.1983. The applicant, in his application dated 28.10.2008 for issue of Second Class Privilege Pass, has mentioned his date of appointment as 19.1.1983."

4. We have heard both the counsel appearing on either side and had perused the documents produced before this Tribunal. Learned counsel appearing for the applicant submits that as per the service records the




applicant has been appointed on 19.1.1983 and if so, he should have been given the 2<sup>nd</sup> financial upgradation on 20.1.2007 as per the ACPS. To substantiate his claim, the applicant has now produced a copy of the application for final withdrawal of Provident Fund dated 30.6.2008 and as per this document the actual appointment date of the applicant he claims as on 19.1.1983. If so, the stand taken by the respondents in the reply statement is not correct. Counsel appearing for the respondents relying on the statement contends that as per the service records now available with the Department the applicant was appointed in the service only on 25<sup>th</sup> September 1983. According to the counsel for the respondents the applicant is entitled for the 2<sup>nd</sup> financial upgradation only on 24.9.2007 that is now assigned to him also. Considering the rival contention now raised before us, we are of the view that as the stand taken in the reply statement that the service records of the applicant are not available in the Department, the only course to be followed by us is to see the records now produced by the applicant showing that his date of entry in the service as 19.1.1983. If so, this is a fact to be verified by the Department and to take a decision in the matter. While considering these matters the Department may consider the fact that the applicant was originally appointed as a Rakshak in the RPF and, if any service records are available with the RPF that also may be verified for deciding the issue in question. Considering all these aspects and documents now produced by the applicant before us, the respondents have to consider the case afresh and pass appropriate order thereon within a timeframe.



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5. Accordingly, the O.A is disposed of by directing the respondents to consider the entire documents once again produced by the applicant as well as the records available with the Department and also the documents, if any, which are now available with the RPF office. The final orders in this matter shall be passed as early as possible, at any rate, within a period of three months from today. It is also informed to us that some arrears with regard to the 1<sup>st</sup> financial upgradation was also due to the applicant. That shall be disbursed to the applicant forthwith. With the above directions, the O.A is disposed of to the extent indicated. There shall be no order as to costs.

(Dated this the 26<sup>th</sup> day of November 2008)

  
**DR.K.S.SUGATHAN**  
**ADMINISTRATIVE MEMBER**

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**JUSTICE.K.THANKAPPAN**  
**JUDICIAL MEMBER**