

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.231/99

Friday this the 15th day of June, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K. Shanmughan
Electrical Fitter/Train Lighting/
Highly Skilled I
Southern Railway,
Ernakulam Marshalling Yard
Kochi.

...Applicant

By advocate Mr.P.K.Madhusoodhanan

Versus

1. Senior Divisional Personnel Officer
Southern Railway
Thiruvananthapuram.
2. Union of India represented by its
General Manager, Southern Railway
Park Town
Madras.

...Respondents

By advocate Mrs. Sumathi Dandapani

The application having been heard on 15th June, 2001,
the Tribunal on the same day delivered the following:

O R D E R

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

Applicant seeks to quash A-5 and to direct the respondents to grant and disburse to him arrears on the implementation of Vth Pay Commission with effect from 1.1.96 onwards in accordance with law in the pay scale of Rs. 4000-6000.

2. ~~First respondent~~ fixed pay of the applicant and certain others consequent on the implementation of the 5th Pay Commission recommendation as per A-3. A-3 being erroneous, the applicant preferred A-4 representation. As no order was passed on A-4 representation, he preferred OA 1542/98 before this Bench of the Tribunal. This Bench of the Tribunal in that OA directed the first respondent to consider the representation and pass appropriate orders. In pursuance of



the same, A-5 was issued. His increment is withheld for a period of 3 years with NR effect as per the Penalty Advice dated 12.3.93. From A-5 it is seen that annual increment from Rs. 1560/- to Rs. 1600/-, i.e. one increment is withheld for a period of 3 years. But the increment due to him from Rs. 1600 to Rs. 1640 is also withheld without any authority. He is eligible and entitled to the arrears of Vth Pay revision in the pay Rs. 1680 (old) corresponding to Rs. 5200/-(new) from 1.1.96 to 1.10.97.

3. Respondents resist the OA contending that the penalty commenced from 1.1.94. The 2nd year of the penalty commenced from 1.1.95 and the 3rd year of the penalty commenced from 1.1.96. It did not end on 1.1.96. The applicant was eligible for the grant of increment effective from 1.1.97. He could not be granted increment from 1.1.97 also as he was awarded the 2nd penalty of withholding of annual increment from 1.1.97.

4. Though the applicant has not produced along with the OA the copy of the order imposing the penalty on him as per order dated 12.3.93 and the respondents have also not produced it along with the reply statement, during the course of the argument, the learned counsel appearing for the applicant brought to our notice a copy of the penalty order wherein it is stated thus:

"Hence the following penalty is awarded to the party. His increment is withheld for a period of 3 years with NR effect."

5. In A-5 the impugned order in para 2.1 it is stated that the penalty was imposed as per order dated 12.3.93.

6. In A-5 it is stated that since the applicant's annual increment due on 1.1.94, 1.1.95, 1.1.96 and 1.1.97 were withheld as per the penalties cited supra, his pay is to be static at Rs.4800/- upto 31.12.97. In the reply statement, respondents say that in the revised scale of pay, the applicant's pay with penalty is fixed at Rs. 5200/- on 1.1.97. It is also stated that

his pay is fixed in the revised scale of Rs. 4800 with penalty as on 1.1.96. What is contained in A-5 and what is stated in the reply statement are not in tune. It appears that A-5 order has not been passed correctly in the light of what is contained in the reply statement filed by the respondents.

7. Respondents also say in the reply statement that subsequently the revised pay scale in Vth Pay Commission for the previous scale of pay Rs.1320-2040 i.e. Rs. 4000-6000 was changed as Rs. 4500-7000 and as per the same the applicant is entitled to Rs.4750/- as on 1.1.96 and Rs. 5125/- as on 1.1.97.

8. Respondents have produced R-1. Against R-1 the applicant has submitted A-6 representation. That representation is pending.

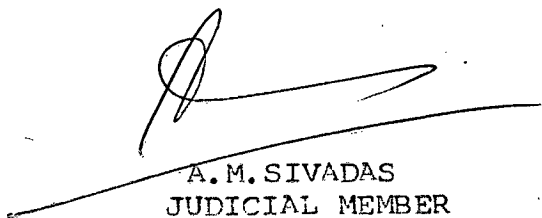
9. Accordingly A-5 is quashed. Respondents are directed to pass fresh orders considering A-6 also within three months from the date of receipt of a copy of this order.

10. The OA is disposed of as above.

Dated 15th June, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order :

- A-5 : True copy of letter No.V/P.535/VIII/PNM/FNM(Pilot)/
dated 29.1.99 of the Senior Divisional Personnel
Officer, Thiruvananthapuram.
- A-3 : True relevant extract of Memorandum No.V/P.524/VIII/
Vth PC dated 11.5.98 issued by the 1st respondent.
- A-4: : True copy of representation submitted by the applicant
to the first respondent dated 14.6.98.
- R-1 : True extract of the Memorandum No.V/p.524/VIII/Elec/
Vol.II dated 11.3.99 of the Senior Divisional Personnel
Officer, Southern Railway, Trivandrum.
- A-6 : True copy of the representation dated 3.4.99 filed by
the applicant.