

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.251/94

Thursday, this the 22nd day of December, 1994.

CORAM:

HON'BLE MR PV VENKATA KRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

C Narayanan,
S/o late V Thappunni Kurup,
Chief Controller,
Southern Railway, Palghat. - Applicant

By Advocate Mr MR Rajendran Nair

Vs.

1. Union of India through
the Secretary,
Ministry of Railways,
Railway Board, New Delhi.

2. The Chief Personnel Officer,
Southern Railway, Madras-3.

3. The Divisional Personnel Officer,
Southern Railway, Palghat. - Respondents

By Advocate Mr K Karthikaya Panicker

O R D E R

PV VENKATA KRISHNAN, ADMINISTRATIVE MEMBER

The applicant, who was working as Controller in the scale 2000-3000 was promoted on 1.10.1985 to the scale of 2375-3500. His grievance is that his junior one Abdul Azeez was promoted and allowed to draw Rs.3200 in the year 1993 when the applicant was drawing only Rs.3050 in the same scale. Applicant therefore prays that A3 order dated 12.1.1994 rejecting his claim for stepping up of pay to that of his junior Shri Abdul Azeez be quashed and that his pay be

stepped up on par with Shri Abdul Azeez from the date of promotion of applicant in the scale Rs.2375-3500 with consequential benefits.

2. Respondents in their reply statement state that junior Shri Abdul Azeez was promoted on adhoc basis. According to respondents, there are no rules governing the stepping up of pay of a senior if a junior is promoted on adhoc basis. They also state that since Shri Abdul Azeez was given an officiating promotion against a vacancy and obtained a direction from the Tribunal in O.A.843/91, his pay was fixed at a higher point than that of the applicant. They also state that the stepping up of pay of a senior employee is admissible only in the case of promotion of junior on regular basis and so the request of the applicant for stepping up of his pay on par with his junior who is promoted on adhoc basis cannot be acceded to.

3. Applicant relied on two decisions of the Tribunal, to support his claim. In O.A.342/93 this Tribunal stated:

"Counsel appearing for applicants invited our attention to several reported decisions, which lay down that a senior drawing a pay lesser than his junior is entitled to have his pay stepped up to the level of that of his junior, irrespective of the reasons that lead to the anomaly in pay. Difference in pay and allowances would result from a variety of reasons. A junior may receive an adhoc promotion. A junior may receive special pay. There could be other reasons as well. In all cases (except where reduction is by way of disciplinary proceedings) a senior will be entitled to have his pay stepped up to the level of the pay received by his junior, due to fortuitous circumstances. This is the

view taken in Smt N Lalitha and others V. Union of India and others, (1992) 12 ATC, 569 and Anil Chandra Das V. Union of India (1988) 7 ATC, 224. It is also said that the view in Anil Chandra Das V Union of India was affirmed on merits by the Supreme Court in SLP No.13994/91. This Bench of the Tribunal also has taken a similar view in P Gangadhara Kurup & others V. Union of India & others, 1993(1) ATJ, 165."

In O.A.1192/93 and connected cases, this Tribunal observed:

"We cannot accept the submission of Standing Counsel that an adhoc or fortuitous promotion earned by Niranjan S Shah on a local arrangement, and consequent grant of increments to him, would take the case out of FR 22A 1(a)."

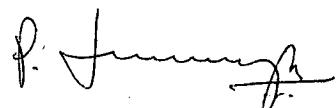
4. In this case, it is not in dispute that both applicant and the junior Shri Abdul Azeez belong to the same cadre and were promoted on a regular basis to posts in the same cadre and that the scales of pay of the lower and higher posts are identical for both the persons. It is also seen that the anomaly has arisen only because the junior has been permitted to count the period for his officiating promotion for purposes of pay fixation. It is not in dispute that the applicant is senior to Shri Abdul Azeez who is drawing a pay higher than the applicant. This case is therefore governed by the decisions of the Tribunal referred to above.

5. Accordingly we direct the respondents to fix the pay of applicant on par with that of Shri Abdul Azeez with effect

from the date on which the junior Shri Abdul Azeez was regularly promoted.

6. The application is allowed with the above direction.
No costs.

Dated, the 22nd December, 1994.



P. SURYAPRAKASHAM
JUDICIAL MEMBER



P. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

trs/2212

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By Advocate Mr K Karthikeya Panicker

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant, who was working as Controller in the scale 2000-3000 was promoted on 1.10.1985 to the scale of 2375-3500. His grievance is that his junior one Abdul Azeez was promoted and allowed to draw Rs.3200 in the year 1993 when the applicant was drawing only Rs.3050 in the same scale.

Applicant therefore prays that A3 order dated 12.1.1994 rejecting his claim for stepping up of pay to that of his junior Shri Abdul Azeez be quashed and that his pay be

stepped up on par with Shri Abdul Azeez from the date of promotion of applicant in the scale Rs.2375-3500 with consequential benefits.

2. Respondents in their reply statement state that junior Shri Abdul Azeez was promoted on adhoc basis. According to respondents, there are no rules governing the stepping up of pay of a senior if a junior is promoted on adhoc basis. They also state that since Shri Abdul Azeez was given an officiating promotion against a vacancy and obtained a direction from the Tribunal in O.A.843/91, his pay was fixed at a higher point than that of the applicant. They also state that the stepping up of pay of a senior employee is admissible only in the case of promotion of junior on regular basis and so the request of the applicant for stepping up of his pay on par with his junior who is promoted on adhoc basis cannot be acceded to.

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5. Accordingly we direct the respondents to fix the pay of applicant on par with that of Shri Abdul Azeez with effect

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from the date on which the junior Shri Abdul Azeez was regularly promoted.

6. The application is allowed with the above direction.

No costs.

Dated, the 2nd December, 1994.

SAC
P SURYAPRAKASAM
JUDICIAL MEMBER

Sdr
PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

trs/2212

28.12.94

M
A
28/12/94



List of Annexure

Annexure A-3 : True copy of the letter No.P(S)524/II/11 dt. 12.1.94 issued by the Chief Personnel Officer, S.Railway, Madras (2nd respondent)

