

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.289/04

Tuesday this the 8th day of June 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

S.Natesan,
Retired Passenger Guard,
Southern Railway, Erode.
Residing at No.21,
Vinayakar Koil Street,
Sasthri Nagar, Erode - 2.

Applicant

(By Advocate M/s.Santhosh & Rajan)

Versus

1. Union of India represented by
the General Manager,
Southern Railway, Chennai.
2. The Divisional Personnel Officer,
Southern Railway, Palakkad.

Respondents

(By Advocate Mr.Thomas Mathew Nellimmottil)

This application having been heard on 8th June 2004 the
Tribunal on the same day delivered the following :

O R D E R


HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant who retired on superannuation after serving as a Passenger Guard on 31.10.1992 has filed this application under Section 19 of the Administrative Tribunals Act, 1985 for a declaration that he is entitled to fixation of his pay under Rule 1313 (a) (i) of the Indian Railway Establishment Code Vol.II on his promotion to the post of Goods Guard from the post of Senior Train Clerk and for a direction to the respondents to refix the pay of the applicant and pensionary benefits accordingly and also direct them to grant the consequential arrears with interest at 12% per annum or alternatively direct the 2nd respondent to

✓

consider and dispose of Annexure A-3 representation at the earliest. It is alleged in the application that on the applicant's promotion from Senior Train Clerk to that of Goods Guard on 17.6.1981 his pay was fixed only under provision of Rule 2017, that when he found that his pay was less than that of two of his juniors M/s.K.Ponnusamy and Krishnasamy the applicant filed O.A.1759/93 for stepping up, that in terms of the directions contained in the order the claim of the applicant was considered and rejected by Annexure A-1 order, that on the basis of the order of the Railway Board (Annexure A-2) dated 24.5.1999 those who were promoted from the post of Senior Clerks to that of Goods Guard although in the identical payscale were entitled to have their pay fixed under Rule 1313 (a) (ii), that this benefit having been given to juniors and not the applicant he submitted Annexure A-3 representation and that since representation has not been disposed of as yet the applicant is entitled to seek the reliefs as sought.

2. We have gone through the application and the materials placed on record and have heard Mr.Santhosh learned counsel of the applicant and Mrs.Luxsy on behalf of the respondents. The claim of the applicant presently is based on Annexure A-2 order. Since his claim for parity with his juniors Krishnasamy and Ponnusamy having been rejected by Annexure A-1 order dated 16.12.1993 it cannot now be raised again. The applicant has not challenged Annexure A-2 but is claiming the benefit thereunder. To see whether the applicant has a legitimate cause of action we have to see whether the applicant can lay any claim even prima facie on the basis of Annexure A-2 order. Para 2 of Annexure A-2 order which is relevant reads thus :



The matter has been examined in detail by the Ministry of Railways in consultation with the Ministry of Personnel, Public Grievances and Pensions (DOP & T) President is pleased to decide that benefit of pay fixation under Rule 1313 (FR 22) (I) (a) (I) R II (erstwhile Rule 1316 (FR 22C) may be allowed in the under mentioned cases of promotion made between 1.1.1986 to 31.12.1995.

3. Although the promotion of the applicant mentioned in the application comes under category 9 mentioned below Para 2 his promotion having been ordered on 17.6.1981 the order apparently is inapplicable to his case. It is thus seen that the applicant has no legitimate cause of action to invoke the jurisdiction of this Tribunal.

4. In the result the Original Application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

(Dated the 8th day of June 2004)

12.6.2004

H.P.DAS
ADMINISTRATIVE MEMBER

asp



A.V.HARIDASAN
VICE CHAIRMAN