

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 295 of 1999

Friday, this the 13th day of July, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. C. Haridas, S/o late Balan Nair,
Electrical Khalasi/Electrical Works,
Southern Railway, Palghat Division
Residing at: "Leela Nivas", Sastapuram,
Post Kottayi, Palghat District.Applicant

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town PO, Madras-3
2. The Chief Personnel Officer,
Southern Railway,
Headquarters Office, Madras-3
3. The Divisional Personnel Officer,
Southern Railway,
Palghat Division, Palghat.Respondents

[By Advocate Mr. K.V. Sachidanandan (rep.)]

The application having been heard on 13-7-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to quash A1, to declare that he is entitled to fixation of his initial pay on reemployment in Railways with effect from 22-10-1991 by adding one increment for every completed year of military service and to direct the respondents accordingly.

2. The applicant is presently working as an Electrical Khalasi in Palghat Division of Southern Railway. He is an Ex-Serviceman retrenched from military service on 23-8-1980 after more than 11 years of continuous service. He was not

granted any pension. He was reemployed in Railways as a Khalasi with effect from 22-10-1991. As per A1, his pay has been fixed at the minimum of the scale of Rs.750-940. He says that he is entitled to higher fixation in terms of Rule 117(12) of Indian Railway Establishment Manual Vol.I.

3. Respondents contend that before joining the Railways the applicant has served in the Defence services and was discharged on 23-8-1980. The pay of the applicant on his appointment was fixed at the minimum of the scale as per the extant instructions. After the issue of A1 a proposal for refixation of pay was sent to the Associate Accounts on 19-8-1999. The Divisional Accounts Officer as per his letter dated 9-9-1999 has advised to furnish a certificate from the Defence authority showing the post held by the applicant and the basic pay drawn during the period from 4-1-1969 to 23-3-1980 to examine his case further. Accordingly the same has been called for from the officer in-charge, EME Record Office, Secundrabad as per letter dated 1-10-1999 and a reply is awaited. The matter has also been referred to the Chief Personnel Officer, Southern Railway, Madras for his decision.

4. The stand of the applicant that he was in defence service and that he was discharged the respondents have admitted in clear terms. With regard to his grievance now against A1, respondents say that after the issuance of A1 a proposal for refixation of the pay was initiated and decision of the Chief Personnel Officer is awaited. It means that the respondents are fully well aware that A1 does not reflect the correct position and it requires reconsideration.

5. A3 is an order dated 1-3-1996. As per the same, a person who joined the Railways with effect from 18-11-1988 was

given the benefit as sought by him herein. There is no whisper against A3 in the reply statement. There is absolutely no reason stated for not giving the same treatment to the applicant.

6. Respondents are relying on R-I. R-I relates to Ex-Servicemen who are drawing pension and reemployed. The applicant has categorically stated that he is not drawing pension and the same is not disputed by the respondents. That being so, R-I is of no application to the facts of the case at hand.

7. The applicant has relied on Paragraph 117(12) of Indian Railway Establishment Manual Vol.I. Respondents do not say that the said provision is not applicable as far as the applicant is concerned, but they rely on R-I. Regarding R-I, we have already stated. That being the position, the applicant is entitled to get his pay fixed as per Paragraph 117(12) of Indian Railway Establishment Manual Vol.I. Respondents are fully aware of the said provision for the said provision is referred to in A3 also.

8. A1, the impugned order, says that in terms of CPO/Madras letter No. P(R)524/Fixation of Pay/Vol.I dated 20-3-1990 retired Defence service personnel below commissioned rank for whom the entire pension drawn by them has to be ignored with effect from 11-6-1995 as per Board's letter on reemployment in Railways after 1-7-1986 are not entitled for any refixation of pay other than at the minimum of the scale of the reemployed post. Though in A1 the letter of the Chief Personnel Officer as well as the letter of the Railway Board are referred to, respondents have not cared to produce the

Board's letter. The Chief Personnel Officer's letter is R-I and we have already stated that R-I has got no application to the facts of the case at hand.

9. A3 is dated 1-3-1996. Both the letters referred to in A1 are prior to that. Those two letters are not pressed into service while considering the case of the person mentioned in A3.

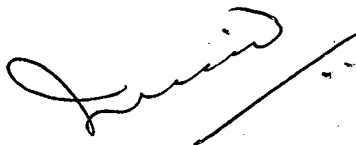
10. Even if there is a letter of the Railway Board, that can only be in tune with what is contained in Paragraph 117(12) of Indian Railway Establishment Manual Vol.I and not against the same.

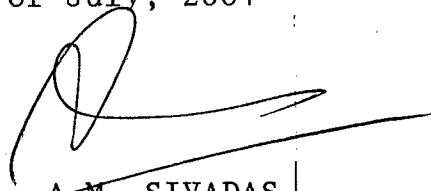
11. For the reasons stated, A1 is liable to be quashed.

12. Accordingly, A1 is quashed. It is declared that the applicant is entitled to fixation of his initial pay in terms of Paragraph 117(12) of Indian Railway Establishment Manual Vol.I. Respondents are directed to fix his pay in the light of Paragraph 117(12) of Indian Railway Establishment Manual Vol.I and grant all consequential benefits the applicant is entitled to. This exercise shall be done by the respondents within three months from the date of receipt of a copy of this order.

13. The Original Application is disposed of as above. No costs.

Friday, this the 13th day of July, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexure referred to in this order:

1. A1 True copy of the order bearing No. J/P 524/III/
MES/Vol.IV dated 28-8-1998 issued by the third
respondent.
2. A3 True copy of the order bearing No. P(S)
536/III/Court Cases/Vol.II dated 1-3-96 issued
by the second respondent.
3. R-I True copy of the letter No. P(R) 524/Fixation
of Pay/Vol.I dated 20-3-90 issued by the
Southern Railway.