

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.385/2002.

Wednesday this the 15th day of September 2004.

CORAM:

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER  
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

K.Shanmughan,  
Senior Technician,  
(Train Lighting),  
Southern Railway,  
Ernakulam Marshalling Yard,  
Kochi-20. Applicant

(By Advocate Shri P.K.Madhusoodhanan)

Vs.

1. Senior Divisional Personnel Officer,  
Southern Railway,  
Thiruvananthapuram.
2. Union of India, represented by  
its Secretary, Ministry of  
Railways, Rail Bhavan,  
New Delhi. Respondents

(By Advocate Smt.Sumathi Dandapani)

The application having been heard on 15.9.2004,  
the Tribunal on the same day delivered the following:

O R D E R

**HON'BLE MR.KV.SACHIDANANDAN, JUDICIAL MEMBER**

The applicant, a Senior Technician (Train Lighting),  
Southern Railway, Ernakulam Marshalling Yard at Kochi is  
aggrieved by the impugned orders A-11 and A-12 fixing his pay as  
per Annexure A-9. According to the applicant, fixation of pay is  
wrong as it was not made in accordance with Rule 7 of the Railway  
Services (Revised Pay) Rules, 1997. Aggrieved by the alleged  
wrong fixation on the part of the respondents, the applicant has  
filed this O.A. seeking the following main reliefs:

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- i. set aside Annexures A-11 and A-12;
- ii. Declare that the fixation of pay arrived at in Annexure A-9, in so far as it adversely affects the applicant is arbitrary and discriminatory, unreasonable, perverse, opposed to law and therefore, illegal and that the applicant is eligible to get Vth Pay Commission arrears in accordance with law;
- iii. Issue necessary directions to the respondents to refix the pay of the applicant in accordance with Rule 7 of the Railway Services (Revised Pay) Rules, 1997 and to grant and disburse to the applicant forthwith arrears of pay on the implementation of Vth Pay Commission with effect from 1.1.96 in the scale of Rs.4500 - 7000 without reduction in pay and disburse the same within a time limit to be fixed by this Hon'ble Tribunal.

2. When the matter was taken up, Shri P.K.Madhusoodhanan, learned counsel, appeared for the applicant and Smt.Sumathi Dandapani, learned counsel appeared for the respondents.

3. Learned counsel for the applicant submitted that, vide order in O.A.510/02 dated 17.8.04, this Bench of the Tribunal had considered an identical issue in which the reduction of pay by wrong pay fixation has been settled. This Tribunal disposed of that O.A. on a similar claim of other applicants finding that there was no merit in fixing the higher pay scale which was granted with effect from 1.1.96. The operative portion of the said judgement is quoted as under:

"When the higher pay scale was given with effect from 1.1.1996, the pay had to be fixed according to that scale. We find that the refixation made in Annexure A2 and what is stated in Annexure A9 are fully correct and unexceptional. Therefore, there is no legitimate grievance of the applicants which calls for redressal."

4. We are in respectful agreement with the finding of the said O.A. Since the pay scale was given effect to from 1.1.96, his pay has been fixed accordingly. Therefore, that part of the claim of the applicant has been settled and our interference is not called for.



5. Another contention of the applicant is that the applicant's pay has not been fixed in accordance with Rule 7 of the Railway Services (Revised) Pay Rules and contended that his initial pay cannot be fixed less than that of Rs.5,200/-. Therefore, the only question survives in this O.A. is whether the fixation made is correct or not.

6. Admittedly, the applicant was awarded two penalties of withholding his annual increments first for 3 years which was in effect upto 31.12.96 and on expiry of the same though he was due for an increment with effect from 1.1.97, he could not be granted that increment as he was imposed with the 2nd penalty of withholding of annual increment from 1.1.97 for one year (reduced for 3 months on Appeal). Therefore, we find that since the applicant was imposed with 2nd penalty of withholding increment as on 1.1.97, his pay of Rs.5250/- has been allowed only with effect from 1.1.97/1.1.98. It is also admitted that the reduction in penalty ordered as per letter dated 17.9.01, the amount due on account of that has already been paid vide Bill No.V/P.148/PG/E dated 15.11.01. We have also perused the rule position with special reference to Rule 7 of the Railway Services (Revised) Pay Rules 1997, which is not squarely applicable in this case.

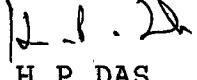
7. Since the applicant was subjected to two penalties retrospectively and after perusing the pleadings and material and the fixation made as per A-11 and A-12, we are of the considered view that the impugned orders are not faulted and we find no

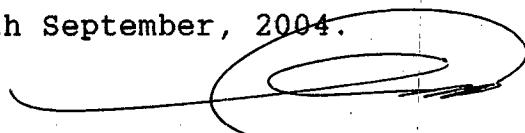
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infirmity in fixation of pay of the applicant accordingly. Under these circumstances the O.A. does not merit and therefore, the same is to be dismissed.

8 Accordingly, we dismiss the O.A. In the circumstance, no order as to costs.

Dated the 15th September, 2004.

  
H.P.DAS  
ADMINISTRATIVE MEMBER

  
K.V.SACHIDANANDAN  
JUDICIAL MEMBER

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