

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 835/92.

~~Transfer Application No:~~

DATE OF DECISION 11/12/92

Shri K.S. Mahalingam. Petitioner

Shri K.V. Yakkundi Advocate for the Petitioners

Versus

G.M. C.Rly., Bombay & Another Respondent

Shri S.C. Dhawan. Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri N.K. VERMA, MEMBER (A)

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

N.K. VERMA
(N.K. VERMA)
MEMBER (A).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

O.A.835/92.

Shri K.S. Mahalingam.

.. Applicant.

V/s.

G.M., C.Rly., Bombay.
& Another

.. Respondents.

Coram : Hon'ble Shri N.K. Verma, Member (Admn.)

Appearances:

1. Shri K.V. Yakkundi,
Counsel for Applicant.
2. Shri S.C. Dhawan, Counsel
for the Respondents.

JUDGMENT ::

Dated : 1.12.1993

§Per : Hon'ble Shri N.K. Verma, Member (A) §

The applicant Shri K.S. Mahalingam has prayed for fixing his pay as Train Superintendent with effect from 1.1.1986 to 12.6.1986 and refixation of his pension with effect from 1.7.1987, the date he is superannuated from the Railways. The short facts of the case are the applicant was ordered to work as Train Superintendent while he was Assistant Chief Train Inspector in the grade pay of Rs.550-750 (1600-2600 RPS) with effect from 1.1.1986. The Railway vide their memo dtd. 28.1.1986 decided that where-ever necessary railway administration may operate the post of Train Superintendent in the grade of Rs.700-900 (2000-3200 RPS) by utilising post in equivalent grade from the cadre from which the incumbent are directed for posting as Train Superintendent and in lieu thereof operate the grades in which the post of Train Superintendent have been sanctioned in that cadre. The Board had also exhorted the

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Railway Administrations to ensure that in such cases the staff working on regular post in grade of Rs.700-900 (2000-3200 RPS) only in respective cadres are posted as Train Superintendent. Undeniably the applicant worked as Train Superintendent with effect from 1.1.1986 to 12.6.1986 during which period he was also promoted to the post of Chief Ticket Inspector in his parent cadre vide order dtd. 13.5.1986 in the pay scale identical to that of Train Superintendent. He took independent charge of Chief Ticket Inspector on 13.6.1986 and hence date of his actual promotion to that post was fixed as 13.6.1986 and his pension etc. were fixed with effect from that date. The Railway Respondents however, deny that the applicant was ordered to work as Train Superintendent in the higher grade of Rs.700-900.

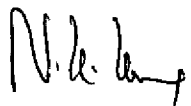
2. The case was heard at length. The learned Counsel for the applicant reiterated that the applicant was working as Train Superintendent with effect from 1.1.1986 to 27.5.86 followed by 16 days earned leave from 28.5.1986 to 13.6.1986 which was not denied by the Respondents. The post of Train Superintendent is in the higher grade of Rs.700-900, ~~As~~ also admitted. Since he was working on that post continuously till he got his next promotion on 13.6.1986, he was entitled to the continuous pay of Rs.700-900 (Rs.2000-3200 RPS) for fixation of his pay and another terminal benefits. The learned Counsel for the Respondents Shri Dhawan contested the application primarily on the ground that it was hit by the limitation as the applicant's representation was rejected so far back on 7.12.1990. He also brought to notice that the applicant had volunteered to work as Train Supdt. which was an ex-cadre post on the same scale of pay as he was drawing as Assistant Chief Ticket Inspector. However, he was not able to produce any letter from the a

indicating that he would be working as Train Superintendent without any extra remuneration. Admittedly the post of Train Supdt. was in higher grade pay as per the Railway Board's letter dtd. 28.1.1986. This decision was taken by the Railway Board in view of the fact it had come to the notice of Board that "there were cases, that Train Supdt's. posted to work is in the same cadre as that of other staff of the train working is supposed to supervise. It has been pointed out that in such a situation the Train Superintendent finds himself in difficulty in discharging his functions effectively and maintaining discipline among staff concerned on the train". In view of this difficulty the Railway Board decided that wherever the necessary Railway Administrations may operate the post of Train Superintendent (Rs.700-900). Thus it is clear that the Railway Board desired that any official coming to fill the post of Train Superintendent should be in the higher grade of Rs.700-900. Presuming that the applicant had volunteered to work as Train Superintendent even in the same scale in which he was i.e. Assistant Chief Ticket Examiner, he cannot be denied the pay of Rs.700-900 (Rs.2000-3200(RPS) which was stipulated by the Railway Board for Train Superintendent under order dtd. 28.1.1986. In view of this the application succeeds. The impugned pension payment order dtd. 3.1.1989 is hereby quashed. It is ordered that the pay of the applicant shall be fixed in the scale of Rs.2000-3200 RPS pertaining to Train Superintendent with effect from 1.1.1986.

4. The Respondents will fix the applicants pension and other terminal benefits working out afresh in light of

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this order and finalise his fresh pension within 3 months of the service of this order. All arrears will also be paid within this period. There will be no order as to costs.


(N.K. VERMA)
MEMBER (ADM.)