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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.217/91

Date of Order: 23.2.1994

S.K.Khanna

.. Applicant.

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1. Union of India, rep. by the
Secretary, Railway Board, Rail
Bhavan, New Delhi - 110 001.
2. The General Manager, S.C.Rly.,
Secunderabad - 500 025.
3. The Financial Adviser & CAO,
S.C.Railway, Secunderabad - 500 025.
4. The Chief Personnel Officer,
S.C.Rly., Secunderabad - 500 025. .. Respondents

Counsel for the Applicant

.. Mr.C.Suryanarayana

Counsel for the Respondents

.. Mr.N.V.Ramana

CORAM:

HON'BLE SHRI A.B.GORTHY : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The applicant while working as Assistant Hindi Officer, a Group 'B' post was promoted as Hindi Officer, a Class-I post in the senior scale of Rs.1100-50-1300-60-1600 vide South Central Railway Office order No.290/79 dated 27.8.1979. The promotion was on adhoc basis and was stated to be ordered with the approval of the General Manager. With the approval of the U.P.S.C. he continued in the post of Hindi Officer and was regularised in that post w.e.f. 18.12.1982. The pay of the applicant on promotion as Hindi Officer ^{was} fixed at Rs.1350 w.e.f. 27.8.1979. Later on, the respondents took the view that the applicant's pay should have been fixed at Rs.1200 only under F.R. 22(C) and accordingly ordered recovery of the excess amount of Rs.10,390.75. Aggrieved by the same he filed this application claiming that his pay initially was correctly fixed and hence the respondents were not justified in ordering the recovery.

2. The respondents in their counter affidavit have stated that keeping in view the instructions of the Railway Board, the benefit of concordance table could be extended only to ~~this~~ ^{ordered} promotion on or before 31.7.1980 and in respect of those promoted after that date their pay fixation had to be done under F.R.22(c) only. Consequently the pay of the applicant on promotion as Hindi Officer was fixed at Rs.1150 in the scale of

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Rs.1100-1600 and by granting him an advance increment his pay was fixed at Rs.1200/- w.e.f. 27.8.1979.

3. We have heard learned counsel for both the parties. As regards the applicability of the benefit of fixation of pay under the concordance table, learned counsel for the applicant has drawn our attention to a copy of the Railway Board's letter No. PC/III/74/ROP-1/28, dated 26.11.1975. The relevant portion of the para 3 (b) (ii) is reproduced below:-

"The pay of departmental promotees from Class-II who are promoted directly from Class-II to the senior scale of Class-I, shall, on promotion to senior scale after 1.1.73, be fixed first in the revised junior scale notionally and thereafter in the senior scale post, in accordance with the stage of their pay in revised junior scale. If on the date of their promotion to the senior scale posts, their pay in the revised junior scale comes to the fourth or earlier stage they shall be allowed only a special pay of Rs.150/- on their junior scale pay. The minimum of the senior scale shall be allowed on completing the fourth stage. Those whose pay comes to the fifth or sixth stage of the revised junior scale. The pay on promotion to the senior scale of those whose pay is at the seventh or higher stage in the revised junior scale shall be fixed according to the concordance table (Annexure-I) subject to the increase in pay on promotion not exceeding Rs.200/- i.e. at the same or next lower stage (if there is no corresponding stage) after allowing a benefit of Rs.200/- on the pay in the revised junior scale. If the pay of a promotee officer promoted to the senior scale later become higher to the pay of another promotee officer of the same cadre promoted to that scale earlier (whether before or on or after 1.1.1973) the pay of the latter shall be stepped up, subject to the fulfilment of the conditions mentioned in sub-paragraph (c) below to bring it at par with that of the former".

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4. Accordingly it is the contention of Mr.C.Suryanarayana, learned counsel for the applicant that the applicant's pay in the junior scale has to be fixed notionally at Rs.1200/- and thereafter by reference to the concordance table the pay in the senior scale should be fixed at Rs.1400/-.

5. Further, disputing the contention of the respondents' counsel that the benefit of concordance table would not apply to those promoted after 31.7.1980, Mr.C.Suryanarayana has placed reliance of a judgement of the Calcutta Bench Tribunal in the case of V.V.Misra v. Union of India and others 1987 (2) ATC 221. In that case it was held that no justification was shown for fixing the cut off ^{date} of 31.7.1980. Even before us there ^{is} nothing to justify this cut off date. Consequently we must, following the judgement of the Calcutta Bench of the Tribunal, hold that the benefit of fixation of pay under the concordance table would apply to the applicant even though he was regularly promoted as Class-I senior scale officer w.e.f. 18.12.1982.

6. Mr.N.V.kamana, Learned Standing Counsel for the respondents has drawn our attention to Railway Board's letter No. PC-III-79/ROP-1/23 dated 5.5.1981. The relevant portion is reproduced below:-

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"Reference this Ministry's letter No.PC III-78/ROP-1/10 dated 31.1.1979 on the above subject.

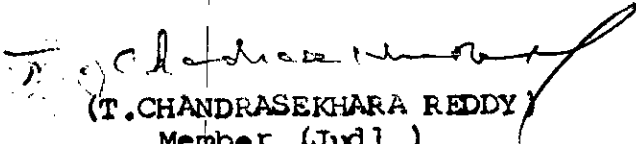
In supersession of para 3 of the aforesaid orders, it has been decided by the Ministry of Railways that in the case of Class II officers who were promoted to Senior Scale posts in the miscellaneous cadres like Chemists & Metallurgists, Security Officer, Chief Cashiers etc., the difference between


- (i) the pay admissible to them in Senior Scale as per the modified concordance table laid down in this Ministry's letter No.PC III-74/ROP-1/28 dated 26.11.75; and
- (ii) the pay admissible under the normal operation of the rules i.e., Rule 2018 B (FR 22 C) R.II as on 31.7.80 may be treated as personal pay to be absorbed in future increases of this account, in respect of the period between the date of promotion of such officers to Senior Scale and 31.7.80. Recoveries of overpayments if affected in respect of the said period may be refunded to the officers.
- (iii) The pay of officers belong to the above cadres promoted to Senior Scale after 31.7.80 will however be regulated under the normal rules i.e. Rule 2018 B (FR.22C) R.II.
- iv) The above has the sanction of the President".

7. We have already noted that there is no justification for fixing the cut off date of 31.7.1980. There is also nothing on record to show why in the case of the applicant the Railway Board's letter dated 26.11.1975 be not invoked and the benefit of his pay fixation under the concordance table be not given to him. In any case, there does not appear to be any justification to treat the "miscellaneous cadre" officials differentially to their disadvantage.

8. In view of the above we allow the application with a direction to the respondents to fix the pay of the applicant in conformity with the Railway Board's letter No.PC III-74/ROP-1/28 dated 26.11.1975 and in accordance with the concordance table as on 27.8.1979. After fixing the pay as directed, the amount that the

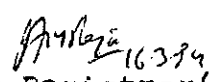
respondents are liable to pay to the applicant shall be paid to him within a period of four months from the date of receipt of this order. There shall be no order as to costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 23rd February, 1994

(Dictated in Open Court)


Deputy Registrar(J)CC

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To

1. The Secretary, Union of India,
Railway Board, Railbhavan, New Delhi-1.
2. The General Manager, S.C.Rly,
Secunderabad-25.
3. The Financial Adviser & CAO,
S.C.Rly, Secunderabad-25.
4. The Chief Personnel Officer,
S.C.Rly, Secunderabad-25.
5. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, SC for Rlys. CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)
AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. E. RANJARAJAN : MEMBER
(ADMN)

Dated: 23-2-1994.

ORDER/JUDGMENT:

M.A./R.A/C.A. No.

in

O.A.No.

217/91

T.A.No.

(W.P.No.

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Admitted and Interim Directions
issued.

Allowed.

Disposed of with direction

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



Handwritten signature and date 23/3/94.