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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 536/91.

Dt. of Decision : 5.10.94.

1. VV Ramana Rao
2. P.Srinivasa Murthy
3. K. Venkateswarlu

.. Applicants.

Vs

1. Chief Personnel Officer,
SC Rly, Rail Nilayam,
Secunderabad.
2. Divisional Railway Manager
SC Rly, Vijayawada.
3. Sr. Divisional Accounts Officer,
SC Rly, Vijayawada.
4. Sr. Divisional Personnel Officer,
SC Rly, Vijayawada.

.. Respondents.

Counsel for the Applicants : Mr. P.Krishna Reddy

Counsel for the Respondents : Mr. N.V.Ramana, Addl.CGSC.

CORAM :

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.S. GORTHI : MEMBER (ADMN.)

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OA 536/91.

Dt. of Order: 5 Oct 91.

(Order passed by Hon'ble Shri A.B.Gorthi,
Member (A)).

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The pay of the applicants on their regularisation as Loco Supervisors was revised in the new pay scales introduced on the VI Pay Commission Recommendations, but later on it was sought to be revised down-wards. Aggrieved by the same, the applicants have come up with this O.A. praying that the impugned memo dt.25-4-91 be set aside and that their pay be restored as it stood prior to the impugned memo.

2. The facts, which are not in dispute are briefly stated. The applicants were in the cadre of Drivers A/B. Prior to 1-1-86 they opted for, were selected and were posted as Loco Supervisors in the scale of pay of Rs.550-750. Their basic pay was fixed under FR 22(c)/1316 of Indian Railway Establishment Code, Vol.II. Further their pay was revised with effect from 1-1-86 giving the benefit of VI Pay Commission scales. In revising their pay as Loco Supervisors, the emoluments which were drawn by the applicants as adhoc Loco Supervisors was taken into consideration. The applicants were subsequently regularised

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as Electrical Traction Supervisors with effect from 15-4-86.

3. Some of the Drivers in the Running cadre, junior to the applicants, were promoted as Loco Running Supervisors on adhoc basis after 1-1-86. Their pay in the promotional post was higher than that of the applicants. This was because their pay was revised under the VI Pay Commission scales in the cadre of Drivers and accordingly running allowance to the extent of 30% of the salary, which was to be taken as pay element was higher than what it was prior to the implementation of the VI Pay Commission scales. The applicants therefore represented the matter to the concerned authorities, who having examined the issue, accepted the applicants' claim and re-fixed their pay at Rs.2,750/- (Applicants 1 & 2) and Rs.2,375/- (Applicant No.3) in the revised scale of pay of Rs.2000-3200. Subsequently the Respondents issued notices to all the effected employees stating that their pay would be revised downwards as it was found that they were not entitled to a second re-fixation of pay on being regularly appointed as Loco/Traction Supervisors. The applicants replied that their pay was properly fixed and that there was no need for re-fixation, but the Respondents did not accept the same and issued the impugned memo by which their pay was re-fixed with effect from 1-1-86 at Rs.2,240/- (Applicant No.1), Rs.2,300/- (Applicant No.2) and Rs.2000/- (Applicant No.3).

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4. Heard learned counsel for both the parties. The short question to be determined in this case is whether the applicants are entitled to claim revision of their pay in the substantive post of Driver held by them as on 1-1-86 or not. Shri P.KrishnaReddy, learned counsel for the applicant states that the applicants are entitled to such^a/claim for two reasons. Firstly, there is no doubt that the applicants as on 1-1-86 were substantive Drivers in the running cadre and they were working as Loco Supervisors, which is of a different cadre, purely on an adhoc basis. Thus it is clear that they held a lien in the running cadre and that they could be reverted to the said cadre any time prior to their regularisation as Loco/Traction Supervisors. Consequently they are entitled to claim revision of their pay under the revised pay scales, in the cadre of Drivers. This would give them substantial benefit as the running allowance of 30% which is treated as pay element would be enhanced considerably if the same is calculated on the basis of pay in the revised pay scales. Apart from that, had the applicants remained in the running cadre only, undoubtedly their pay would have been revised in the scale of pay of Drivers. The fact that they were as on 1-1-86 officiating on an adhoc basis as Loco Supervisors should not deprive them of the

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benefit of revision of their pay scale in their parent cadre of Drivers, so contended the applicants counsel.

5. The second issue raised by the learned counsel for the applicants is that juniors to the applicants^{who} were promoted as officiating Loco/Traction Supervisors after 1-1-86 had the benefit of revision of their pay scales in the cadre of Drivers and then had the benefit of fixation of their pay in the higher post of Loco/Traction Supervisors and consequently such juniors were drawing higher salary than the applicants. It is contended for the applicants that such a situation arose for no fault of theirs. In fact this plea of the applicants was accepted by the Respondents and necessary redressal was given by refixing their pay but the same was rescinded later on.

6. The main contention of the Respondents is that once the pay of the applicants was refixed under FR 22(c)/Rule 1316 of Indian Railway Establishment Code Vol.II, there was no question of giving the same benefit once again on the regularisation of the applicants. This contention, in our view, seems fallacious. What is claimed by the applicants is that the benefit of the revised pay scales introduced by the VI Pay Commission should be given to them in the running cadre because as on 1-1-86

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and prior to that date they belonged ^{to} running cadre only but were merely officiating as Loco/Traction Supervisors in another cadre. We do not see any thing repugnant in the claim of the applicants in this case. On the other hand Rule 7(1) of the Railway Servants (Revised Pay) Rules, 1986 provides as under :-

" The initial pay of a Railway servant who elects, or is deemed to have elected under sub-rule (3) of rule 6 to be governed by the revised scale on and from the 1st day of January, 1986, shall, unless in any case the President by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have a lien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely"

From the above it would be apparent that the pay of an employee could be separately fixed in respect of the substantive post in the permanent post on which he holds a lien and in respect of his pay in the officiating post held by him. Another aspect of the matter, which we cannot afford to ~~xxx~~ gloss over is that juniors to the applicants are now drawing salary higher than that of the applicants. The said juniors are holding the promotional post of Loco/Traction Supervisor on an adhoc basis. As soon as they are regularised, the pay of the applicants in any case would also required stepping up in accordance

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with the extant rules. The benefit of such stepping up is denied to them because the promotion of juniors was only on an adhoc basis.

7. In view of what is stated above, we find that the Respondents acted correctly when they fixed the pay of the applicant No.1 and 2 at Rs.2,750/- and Applicant No.3 at Rs.2,375/- with effect from 1-1-86. We are further satisfied that there was no justification for the Respondents to order reduction of their pay, as was done by means of the impugned order dt.25-4-91 giving it retrospective effect from 1-1-86. In the result the impugned memo No.B/P.487/III/PC/Vol.III dt.25-4-91 is hereby set aside with all consequential benefits. Recoveries, if any made, shall be refunded to the applicants within a period of three months from the date of communication of this order. No costs.

(A.B.GORTHI)
Member (A)

(A.V.HARIDASAN)
Member (J)

Dt. 05 October, 1994.

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DEPUTY REGISTRAR(J)

To

1. Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
2. Divisional Railway Manager, South Central Railway, Vijayawada.
3. Senior Divisional Accounts Officer, South Central Railway, Vijayawada.
4. Senior Divisional Personnel Officer, South Central Railway, Vijayawada.
5. One copy to Mr.P.Krishna Reddy, Advocate, CAT, Hyderabad.
6. One copy to Mr.N.V.Ramana, Addl.CGSC, CAT, Hyderabad.
7. One copy to Library, CAT, Hyderabad.
8. One spare copy.

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