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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 1188/93.

Dt. of Decision : 30.6.94.

Mr. Gurmail Singh

.. Applicant

Vs

1. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Secunderabad.
2. The Divisional Railway Manager
(Personnel)
SC Rly, Hyderabad (MG) Division,
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. N. Raman

Counsel for the Respondents : Mr. G.S. Sanghi, SC for Rlys.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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O.A.No.1188/93.

Pre-delivery Judgment in the above O.A. typed as per
Hon'ble Sri R.Rangarajan, Member(A) for concurrence
please.

H.M. (A)

HVC

See by Hon'ble
28/6

G.Rangaiah
27/6/94
(G.Rangaiah)
Sr.P.A.

O.A.No.1188/93.

Date: 30

JUDGMENT

As per Hon'ble Sri R.Rangarajan, Member(Administrative)

The applicant herein was appointed as Ticket Collector in the grade of Rs.260-400 (R.S.) on 27.7.1978 against Sports Quota fixing him at the maximum of the pay of Rs.400/- in the grade at the time of his appointment. He was subsequently promoted to Senior Travelling Ticket Examiner in the grade of Rs.330-560 (R.S.)/1200-2040 (RSRP). His pay on promotion was fixed at Rs.1500/- in that grade. While working as Sr. T.T.E. on 22.1.1985 in Train No.582 a surprise check was conducted by the Travelling Inspector of Accounts of Railways and it was reported by him that the applicant failed to collect Berth charges of Rs.15/- from some passengers occupying berths. For the above lapse he was issued with a charge-sheet and was imposed a penalty of reduction from the post of Sr. T.T.E. in the scale of Rs.330-560 (RS) to the lower grade as Ticket Collector in the scale of Rs.260-400 on 12/13-11-1986. The order of punishment by the competent authority reads as below:-

"The undersigned has therefore decided that the penalty of reduction to the next lower grade post be imposed. You are therefore reduced with immediate effect from the post of Sr.T.T.E. in the scale of Rs.330-560 (R.S.) to the post of Ticket Collector (T.C.) in the scale of Rs.260-400 (R.S.) fixing your pay in the minimum of the grade at Rs.260/- permanently with loss of seniority, until found fit by the competent authority."

2. By an order dt. 14.6.1989, the applicant was again promoted to the grade of Rs.1200-2040 (R.S.R.P.) as Travelling Ticket Examiner but his pay was fixed at starting pay of Rs.1200/- in that grade.

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3. He appealed against fixing his pay at minimum of the scale on his re-promotion to the grade of Rs.1200-2040 (RSRP) as Sr. T.T.E. to R-1 and requested for protecting his pay on promotion. But his request was turned down by Annexure-IV letter. Against this refusal order, he has filed this OA praying for a direction to respondents to fix his pay on his re-promotion to the grade of Rs.1200-2040 (R.S.R.P.) as T.T.E. taking the pay drawn on the lower grade i.e. Rs.1500/- in the scale of Rs.950-1500 (RSRP) applicable to the post of Ticket Collector duly adding promotional increments as per rules with consequential benefits of arrears etc.

4. The main prayer in this OA is for a direction to --- duly adding promotional increments --- in the re-promoted scale of Rs.1200-2040. The only point for consideration here is whether such fixation is permissible as per extant rules.

5. The learned counsel for the applicant contends that the applicant's pay cannot be fixed at less than Rs.400 in the grade of Rs.260-400 (R.S.) in the grade of Rs.260-400 (R.S.) when he was reverted as a punishment as his pay was fixed at the maximum of the scale at Rs.400/- when he was appointed. For this, he relies on the judgment of the Supreme Court in Civil Appeal No.3003/88 and 889/88 - Nayadaro Singh and M.J.N.Inama Vs. Union of India. The Supreme Court in the above mentioned two Civil Appeals had held that a person appointed directly to a higher post, service, grade or time-scale of pay cannot be reduced by way of punishment to a post in a lower time-scale, grade, service, to a post which he had never held before. In this case, the applicant was appointed as a Ticket Collector in the grade of

Rs.260-400 (R.S.) initially and he was reverted only to that grade. Hence, his reversion to the lower grade is not against the ruling of the Supreme Court in the above said appeal. Further the above said ruling in no way stipulates that on reversion his pay should be fixed at the stage given to him while he was appointed as Ticket Collector. Hence, reliance on this citation does not help the applicant.

6. The punishment Under Rule 6(v) & (vi) of Railway Servants (Discipline & Appeal) Rules, ~~were~~^{was} discussed in the Full Bench Judgment of this Tribunal reported in I 1993(2) SLR 79 - Y.D.Parwana Vs. Union of India I. In that case, it was urged by the applicant therein that penalties imposed on him by reducing him to a lower time-scale of pay and fixing his pay at the minimum of the time-scale of the pay as untenable as it involves two punishments. The above said major penalties under Rule 6(v) and (vi) of the Railway Servants (D & A) Rules are reproduced for clarity -

- "(v) Reduction to the lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;
- (vi) Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the Railway Servant was reduced and his seniority and pay on such restoration to that grade, post or service."

But, it was held by the Full Bench in the above citation that two punishments are permissible and the competent authority has competence to fix the pay at any stage of the scale of pay attached to the lower post. The Full Bench relied on para-1322 and 1323 of I.R.E.M. Volume-II to come to the conclusion. The above said two paragraphs of I.R.E.M. reads as under -

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"1322 (F.R.28) Pay on Reduction to Lower Post:- The authority which orders the reduction of railway servant as a penalty from a higher to a lower post or time-scale, may allow him to draw any pay, not exceeding the maximum of the lower post, or time-scale which it may think proper.

Provided that the pay allowed to be drawn by a Railway servant under this rule shall not exceed the pay which he would have drawn by the operation of Rule 1313 (F.R.22) read with Clause (b) or Clause (c) as the case may be, of rule 1320 (F.R.26).

1323 (F.R.29) - If a Railway servant is reduced as a measure of penalty to a lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, the period of reduction shall operate to postpone future increments and, if so, to what extent.

(2) If a Railway servant is reduced as a measure of penalty to a lower service, grade, or post, or to a lower time-scale, the authority ordering the reduction may or may not specify the period for which the reduction shall be effective; but where the period is specified, that authority shall also state whether, on restoration, the period of reduction shall operate to postpone future increments and if so, to what extent."

From the above two paragraphs of the I.R.E.M., the Full Bench drew strength to state that it is within the competence of the authority to fix the pay at any stage in the lower grade and also the authority is competent to give a suitable direction for fixation of pay as envisaged in the Rule 6(v) and (vi) of the Railway Servants (D & A) Rules. The germane observation of the Full Bench reads as under:-

"Statutory provisions make it clear that when a penalty is imposed, reducing the Railway servant from a higher to a lower post or time-scale, the authority imposing the penalty has competence to fix the pay at any stage of pay of the lower post subject to the condition that it shall not exceed the maximum. Thus, it follows that when a penalty is imposed under Rule-6, reducing the Railway Servant to a lower post, carrying a lower scale of pay, the disciplinary authority has also the competence to fix the pay on such reduction at any stage of the

scale of pay attached to the lower post. He is duly empowered to fix the pay at the bottom of the scale to which the Railway Servant stands reverted by way of penalty."

From the above, it would be clear that Rule 6(v) & (vi) of the Discipline & Appeal Rules give power to the concerned disciplinary authority to give directions to fix the pay of the delinquent employee in the lower time-scale when he was reverted to the lower scale as a punishment including the initial stage of pay.

7. The rule 6(vi) also permits the concerned authority to fix the pay when restored to the higher grade at the appropriate stage as he deems fit. If no such direction is given by the competent authority it should be construed that on restoration/re-promotion, to the higher grade the normal rule of pay fixation on promotion has to be followed. The above interpretation is in consonance with the observations of the Full Bench Judgment in [1993(s) SLR 79] quoted above. In this case, though the applicant was granted the maximum of the pay-scale as Ticket Collector when appointed, the punishment order clearly states that his pay should be fixed at Rs.260/- minimum of pay when he was reverted to a lower time scale. This direction is in order as explained earlier. This punishment order also does not give any direction for fixation of pay on restoration/re-promotion to the higher grade. In the absence of any such direction, the normal rule of pay fixation on promotion has necessarily to be followed.

8. The applicant relies on the Railway Board's letter No.E(D&A)62 RG6-46 dt. 30.7.1964 to state that his pay on re-promotion should be protected. In this letter, the scope of old Rules 2024-RII and 2025-RII has been analysed in fixing

the pay on reduction to a lower post. These two paragraphs are similar to new para-1322 and 1323 of I.R.E.M. Vol.II. This letter dt. 30.7.1964 in no way gives any ruling regarding protection of pay on repromotion when a Railway servant is inflicted with a punishment of Rule 6(vi) of Railway Servants(D&A) Rules. On the other hand, the respondents rely on the Railway Board's letter No.F(E)60-FR-1/4(I) & (II) dt. 27.10.1960 to state that if the reduction to the lower post is for * unspecified period or if further promoted to a higher post the pay fixation will be regulated in accordance with normal rules relating to pay fixation. Though the applicant states that the said Railway Board letter dt. 27.10.1960 is superceded by the Board's letter dt. 30.7.1964, we find no evidence to that effect. As a matter of fact, the letter of 27.10.1960 is referred to in the letter of 30.7.1964. In our opinion the letter dated 27.10.1960 only deals with regularisation of pay when repromoted after the punishment is over and not the later letter dt. 30.7.1964. Further the Railway Board's letter dt. 27.10.1960 is in accordance with the observations of the Full Benchx in the above quotee citation.

9. In view of the above, we are of the opinion that if no direction is given by the competent authority for fixation of pay when a Railway Servant is repromoted/restored to the original grade after undergoing the punishment of reduction to the lower grade, normal rules of pay fixation will be applicable. As no direction is given in this case for fixation of pay in the promoted scale by the competent authority, fixation of the pay of the applicant following the normal rules is in order.

10. In the result, the O.A. has no merit and fit only to be dismissed. Accordingly we do so. No costs.

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(R.Rangarajan)
Member (A)

Neeladri
(V.Neeladri Rao),
Vice Chairman

Dated 30th June 1994.

Grh.

7-7-94
Deputy Registrar (Judl.)

Copy to:-

1. The Chief Personnel Officer, S.C.Rlys, Rail Nilayam, Secunderabad
2. The Divisional Railway Manager (Personnel), South Central Railways, Hyderabad (MG), Division, Secunderabad.
3. One copy to Shri N.Raman, Advocate, 21-97, Uttam Nagar, Malkagiri, Hyderabad-500 047.
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