

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 1255/93.

Dt. of Order: 12-2-94.

The Sr.Divisional Superintendent,
SC Rlys, Vijayawada,
Now The Divisional Railway Manager,
SC Rlys, Vijayawada.

....Applicant

Vs.

1. Sri M.Venkadu
2. The Presiding Officer,
Labour Court (Central),
Guntur.

....Respondents

Counsel for the Applicant : Sri N.R.Devraj, SC for Rlys

Counsel for the Respondents : Sri M.Vijaya Kumar for R-1

CORAM:

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

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

.....2.

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DA.1255/93

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri N.R. Devaraj, learned counsel for the applicant and Sri M. Vijaya Kumar, learned counsel for the respondents.

2. The applicant was originally appointed as Gangman in the Engineering Department on 19-5-1958 in the pay scale of Rs.70-85. In 1969 he was declared medically unfit in B-1 and B-2 Class and he was found fit for C-1 and below. Then the applicant was given alternative appointment in the category of Sealman in Commercial Department in the pay scale of Rs.70-85 and posted under Station Superintendent, Vijayawada, (an application filed under Section 33 C(2) of ID Act, it was alleged that the applicant was given an alternative appointment as Sealer in the pay scale of Rs.70-85). But it is now conceded for the applicant that reference of Sealer in the application filed under 33 C(2) of ID Act is a mistake for Sealman and therein the pay scale was correctly referred to.

3. The revised pay scales had come into effect from 1-1-1973. As per those revised pay scales, the pay scales for the Sealman in the Engineering Department in Railways was Rs.210-270 while the corresponding pre-revised scale for the said post was Rs.75-110 (vide page 57 in Exhibit P-1).

4. But the revised pay scale of the Sealman in Commercial Department in Railways with effect from 1-1-1973 was Rs.196-232 while the corresponding pre-revised scale was Rs.70-85.

5. The applicant was given pay in the revised pay scale of Rs.196-232 from 1-1-1973. Till the scales were revised with effect from 1-1-1986, the applicant was given pay in the pay

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Scale of 196-222 and in the
corresponding revised pay scale from 1-1-1986.

6. The applicant filed CMP.3/88 on the file of Labour Court, Guntur, under section 33 C(2) of ID Act claiming difference in pay on the basis of the pay in the scale of Rs.210-270 with effect from 1-1-1973 and the corresponding revised pay scale from 1-1-1986. The learned ~~Presiding~~ Officer, Labour Court, observed as under :

"Ex.P.1 is the fortnight Gazette issued by the S.C. Railway on 15-9-1975. Though it contended that there are two posts of Sealman and Sealer no such distinction is shown in this Ex.P.1 categorisation. In Ex.P4 table of scales applicable to all departments is given. As per the scales the Revitter, Sealman, Reverse Pointman were all put in the same Class as Class IV staff and common pay scale was prescribed. As admitted by R.W.1 the nature of the duties carried on by Sealer and Sealman are one and the same and they belong to same C1 category. If that is the case, the usual principle of same work same pay is applicable to the petitioner's case also. In fact there was no categorisation or description shown in the jobs of Sealer and Sealman and that Sealer post is not at all shown in the cadres of pay scales. When once the petitioner-workman is appointed as Sealer he is entitled to the scales of a Sealer as per the service register which is marked as Ex. R.1. This man after being declared as medically unfit to hold the post of BII and BII category was appointed as Sealman. So there is every justification for the petitioner Sealman claiming the pay scales applicable to the cadre and post."

7. Though only Exhibit P1 to P3 are referred to in the appendix to impugned order, Ex.P1 disclosed that page 57 in Ex.P1 is marked as P4. It refers to the revised pay scales of Sealman and ^{some other posts} thus in the Engineering Department only. Therein the pre-revised scale for the said category ^{was also} referred to.

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It does not refer to the revised pay scale of Seaman in Commercial Department. The applicant who is working as a Seaman in Commercial Department can claim the pay scales prescribed for the said post, and he cannot claim the pay scales prescribed for Seaman in Engineering Department. But if a Seaman in a Commercial Department intends to claim the pay scale prescribed for Seaman in Engineering Department on the ground of equal pay for equal work, it is a matter for consideration as an industrial dispute and the same cannot be claimed in an application under section 33 C (2) of ID Act.

8. Thus, the learned Presiding Officer ~~had~~ in directing the respondents in CMP to give the pay to the applicant in the pay scales of Seaman in Engineering Department from 11-1-1973 when he was only a Seaman in a Commercial Department for whom the scales of pay ~~were~~ ^{were} lower. The learned Presiding Officer had also ~~heard~~ in applying the principle of equal pay for equal work when such a contention cannot be a matter for adjudication in an application filed under section 33 C (2) of ID Act. As already observed, such a plea can be adjudged only ~~in~~ ^{as on} industrial disputes and that is not the matter for consideration either in a matter of CMP or in this OA which is filed under section 19 of Administrative Tribunals Act against order in CMP.3/88. It is not the case of the applicant that he is entitled to any additional amount over and above the salary and other emoluments which ~~was~~ ^{were} paid to him ~~on~~ ^{from} 11-1-1973 in the pay scale of Rs.196-232. ~~from 1-1-73~~ and on the basis of the corresponding scales from 1-1-1986. As such this OA has to be allowed and the impugned order is liable to be set aside.

9. In the result this OA is allowed and the order dated 31-12-1992 in CMP.3/88 on the file of Presiding Officer,

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Labour Court, Guntur, is set aside and the said CMP is
dismissed. No order as to costs.

R. Rangarajan
(R. Rangarajan)
Member (Admn)

V. Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman

Dated : February 1, 94

Deputy *Registar*

To

1. The Sr. Divisional Superintendent,
S.C.Rlys, Vijayawada,
now the Divisional Railway Manager, S.C.Rlys, Vijayawada.
sk
2. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
3. One copy to Mr.M.Vijaya Kumar, Advocate, CAT.Hyd.
4. The Presiding Officer, Labour Court(Central), Guntur.
5. One copy to Library, CAT.Hyd.
6. One copy spare.

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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.GORTHI : MEMBER(A)
AND

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

AND

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

Dated: 1-7-1994.

ORDER/JUDGMENT:

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

in

O.A.No. 1255/93

T.A.No.

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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