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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

D.A.NO.1351 of 1993.

Between

Dated: 8.3.1995.

Ch. Durga Prasada Sarma

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Applicant

And

1. The Sr. Divisional Personnel Officer, South Central Railway
Vijayawada.
2. The Divisional Railway Manager, South Central Railway,
Vijayawada.
3. The Chief Personnel Officer, South Central Railway,
Railnilayam, Secunderabad.

...

Respondents

Counsel for the Applicant

: Sri. M.V.K.Viswanadham

Counsel for the Respondents

: Sri. J.R.Gopala Rao, SC for
Railways.

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:...2/-

O.A. 1351/93.

Dt. of Decision : 08-03-95.

ORDER

¶ As per Hon'ble Shri A.V. Haridasan, Member (Judl.) ¶

The applicant was selected in the year 1969 and was included in the panel prepared ~~and~~ ^{of} for appointment Assistant Teacher under the Railways, but he was appointed only with effect from 11-12-1972. During this period as a result of the order of the High Court of A.P. in W.P.No. 1274/69, some Substitute Teachers were absorbed in regular service. After the appointment of the applicant a seniority list was published as on 01-01-1978, from which the applicant was placed below several substitute teachers who were appointed regularly after his empanelment and before his appointment. He challenged the seniority list in W.P.No. 4595/78 before the High Court of A.P. The learned Single Judge dismissed the Writ Petition. His Writ Appeal (No. 142/86) was allowed and the Railway Administration was directed to reconsider the issue in the light of Rule 306 of the Indian Railway Establishment Manual (Chapter-III). Pursuant to the above decision in the Writ Appeal, the respondents after notice to the applicant, considered the seniority of the applicant and placed him above Smt. N.K.Vijayalakshmi by proceedings dated 03-06-1991. The applicant's promotion was revised in the scale of Rs. 440-750 (RS) w.e.f. 03-03-1978 on proforma basis on par with his immediate junior Smt. N.K.Vijayalakshmi by order dated 02-12-92. The applicant's junior Smt. N.K.Vijayalakshmi was drawing basic pay of Rs. 2,600/- while his pay was only Rs. 2,360/-, the applicant made a representation to the first respondent to re-examine the issue. By proceedings dated 20-04-93 the first respondent informed the applicant that in partial modification of the earlier fixation, his pay has been fixed at Rs. 2,360/- only. Aggrieved by that, the applicant has filed this application praying that

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the respondents may be directed to step his pay up on par with his immediate junior Smt. N.K.Vijayalakshim in the scale of Rs.440-750 onwards and to pay him the arrears consequent to the above refixation.

2. The respondents in their reply affidavit have contended that though the promotion of the applicant was brought on par with promotion of his junior Smt.N.K.VIjayalakshmi in the higher scale, he is not entitled to have his pay stepped up on par with the pay Smt. N.K.Vijayalakshmi, because Smt.N.K.Vijayalakshmi had commenced her service as substitute teacher in the year 1967 and had earned increments before her regular appointment and therefore she was never getting lower pay than the applicant in the lower posts. Therefore in accordance with the provisions of the Railway Establishment Code, no case for stepping up of pay according to the respondents.

3. We have heard learned counsel for both the parties and have perused the relevant materials. The stepping up of pay of a junior employee on par with the pay of his junior is covered by Sub Rule 9 of Rule 1316 of the Indian Railway Establishment Code. Clause (ii) (c) of Sub Rule 9 of Rule 1316 reads as follows:

"the anomaly should be directly as a result of the application of Rule 1316 (F.R.22-C). For example, if even in the lower post the junior employee draws from time to time a higher rate of pay than the senior by virtue of fixation of pay under the normal rules, say due to grant of advance increments or due to accelerated promotion, etc., the provisions contained in this letter will not be invoked to step up the pay of the senior employee".

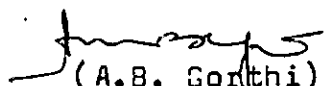
In this case it is clearly borne out from the pleadings and the documents annexed to the reply affidavit that the pay of Smt. N.K.Vijayalakshmi had been more than that of the applicant in

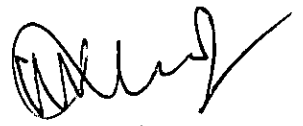
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the lower scale and that this was due to the fact that Smt.Vijayalakshmi had earned increments having commenced her service in the year 1967, where as, the applicant was appointed only in the year 1972. In accordance with the provisions above quoted, the applicant is not entitled to have his pay stepped up on par with that of Smt.Vijayalakshmi who has been drawing more pay in the lower post and therefore there is no anomaly warranting a step up.

4. In the result, the application fails and the same is dismissed, leaving the parties to bear their own costs.


(A.B. Gonthi)
Member(Admn.)


(A.V. Haridasan)
Member(Judl.)

Dated : The 8th March 1995.
(Dictated in Open Court)


Deputy Registrar(Judl.)

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Copy to:-

1. The Sr. Divisional personnel Officer, South Central Railway, Vijayawada.
2. The Divisional Railway Manager, South Central Railway, Vijayawada.
3. The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
4. 8-3-070705; Frdg-M.V K Viswanatham, Advocate. "Sindhu",
5. One copy to Sri. J.R.Gopala Rao, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.