

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

HYDERABAD

O.A.NO.1352 of 1993

Between:

K.P.Sundara Babu

Applicant

and

1. Divisional Railway Manager,

S.C.Railway, Guntakal.

2. Senior Divisional Personnel Officer

S.C.Railway, Guntakal

Respondents

Counter Affidavit filed on behalf of Respondents.

I, K. Thiagarajan, S/o Late Krishna Swamy, aged 42 years, Occupation : Govt. Service, do hereby solemnly affirm and state as follows :

1. I am Respondent No.2 in the above case and as such I am well acquainted with the facts of the case. I am filing this counter affidavit for myself and on behalf of the other Respondent, as I have been authorised to do so. The material averments in O.A. are denied save those that are expressly admitted herein. The Applicant is put to strict proof of all such averments that are not specifically admitted hereunder.

[Signature]
Attestor
ASST. PERSONNEL OFFICER
Div. Office
South Central Railway
GUNTAKAL (A.P.)

[Signature]
Deponent
विष्णु मंडल कामिंक अधिकारी
विष्णु मंडल रेलवे मंडल
Senior Divisional Personnel Officer
South Central Railway, Guntakal

2. Limitation: It is submitted that the O.A. is barred by limitation in as much as the applicant is now challenging the fixation of his pay w.e.f. 1.1.86 in terms of the IVth Pay Commission recommendations issued on 1.10.86 after a delay of 7 years and is liable to be dismissed in limini.

3. The brief facts of the case as admitted by the applicant are as under:

(i) The applicant is working as a Passenger Driver. In 1983 he was issued with a minor penalty charge-sheet which had resulted in with-holding of one annual increment for a period of one year from 1.5.85 to 30.4.86. The applicant could not be considered for promotion as 'Driver 'B' on 5.12.85 as he was undergoing the penalty of with-holding of increment from 1.5.85 to 30.4.86. However, his juniors who were free from penalty were promoted as Driver 'B' in scale Rs.425-640(RS). The applicant could not also be considered for promotion as Driver 'B' against upgraded post as on 1.1.84 as the applicant was not senior enough for promotion. Thus the applicant was not promoted and confirmed in the scale Rs.330-560(III P.C.).

(ii) However, he was allowed pay fixation on 1.1.86, the date on which IV Pay Commission scales were introduced on notional basis as the applicant was undergoing punishment and his pay was fixed at Rs.1410/- in the grade Rs.1350-2200(RSRP) from 1.5.86. As the applicant was undergoing

Nachapure
Attestor

ASST. PERSONNEL OFFICER
Div. Office
South Central Railway
GUNTAKAL (A.P.)

K. Nagay
Dependent
राज्य सरकार कार्मिक अधिकारी
हृषीकेश रेलवे प्राविधिक
Senior Divisional Personnel Officer
South Central Railway, Guntakal.

punishment, he could not be promoted to the grade Rs.425-640 (III.PC) while his juniors were promoted and as such he cannot claim for fixation of pay in the post of Driver'B' without being promoted and accordingly the applicant was also advised vide Letter.No.G/P.524/III/Rng.Vol.VI, Dt.3.8.93 by the Sr.DPO/GTL in detail, (copy attached) which the applicant has failed to place before the Honourable Tribunal. Thus the claim of the applicant is untenable.

4. The Respondents further submit as under in reply to the various averments in the O.A. para by para.

(i) In reply to para 6(b) of the O.A. it is submitted that as on 1.5.85, the applicant could not be considered for promotion against the vacancies, as he was undergoing penalty of with-holding of increment from 1.5.85 to 30.4.86. His juniors who were free from penalty were promoted as Driver'B' in scale Rs.425-640(RS). As the applicant was not promoted and continued in the scale Rs.330-560 (III P.C.), he was allowed pay fixation on 1.1.86, when the IVth Pay Commission scales were introduced on notional basis as he was undergoing punishment and his pay fixed at Rs.1410/- in grade Rs.1350-2200(RSRP) from 1.5.86.

(ii) As the applicant was undergoing punishment, he could not be promoted to the grade Rs.425-640 (III PC) while his juniors were promoted and as such the applicant cannot claim

Deobpur
Attestor

ASST. PERSONNEL OFFICER
Div. Office
South Central Railway
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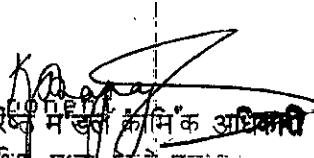
K. Paray
Deponent
वरिष्ठ मंडल क्रमिक अधिकारी
हृष्ण मध्य रेलवे गवर्नर
Senior Divisional Personnel Officer
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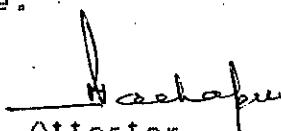
for fixation of pay in the post of Driver 'B' without being promoted.

(iii) The applicant was accordingly replied vide Letter No. G/P.524/III/Rng/Vol.VI dt. 3.8.93.

5. For the above said reasons it is submitted that there is no merit in the O.A. and it is prayed that the Hon'ble Tribunal be pleased to dismiss the O.A. with costs and pass such other order or orders as the Hon'ble Tribunal deems fit in the circumstances of the case.

Sworn and signed on this
the 28th day of December
1993 at _____ and signed
before me.


कृष्ण संदर्भ कामिक अधिकारी
हांडि मध्य रेलवे राज्य
Senior Divisional Counsel Officer
South Central Railway, Guntakal.


Attestor.
ASST. PERSONNEL OFFICER
Div. Office
South Central Railway
GUNTAKAL (A.P.)

TYPED BY

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.G RTHI : MEMBER(A)

AND

THE HON'BLE MR.T. CHANDRASEKHA R REDDY
MEMBER (CUDL)

THE HON'BLE MR.R.RANGARAJAN : MEMBER (2)

Dated: 18-7-1994.

ORDER/JUDGMENT:

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

in

O.A.No. 1352 93

T.A. No.

(W.P.)

**Admitted and Interim Directions
Issued.**

~~Allowed~~

Post at 12/8/94

Disposed of with directions
Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvrn

