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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
O.A.NO.686 of 1994.

Between

Dated: 29.9.1995.

M.R.K.Murthy

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Applicant

And

Union of India represented by:-

1. The General Manager, S.E.Railway, Garden Reach, Calcutta.
2. The Secretary, Railway Board, Ministry of Railway Rail Bhavan,
3. The Financial Adviser & Chief Accounts Officer, S.E.Railway, Calcutta.
4. The Financial Adviser & Chief Accounts Officer(S&C), S.E.Railway, Visakhapatnam.
5. The Dy. Financial Adviser & Chief Accounts Officer(Workshops), S.E.Railway, Khargpur.

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Respondents

Counsel for the Applicant

: Sri. Y.Raja Rao

Counsel for the Respondents

: Sri. C.V.Malla Reddy, SC for Rlys.

CORAM:

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

Contd:...2/-

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O.A.No.686/94

Date of Order: 29.9.95

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

The claim of the applicant is ^{that his} pay in the post of Sub-Head should have been fixed by giving the benefit of Rule 2018-B (FR 22 C) of Railway Establishment Code, Volume.II, 1973 Edition.

2. The applicant joined the Railways on 13.6.1957 as a Typist and was promoted as Clerk Grade I (Rs.330-560) w.e.f. 23.11.61. Later he was promoted as Selection Grade Clerk Grade I (Rs.425-700) w.e.f. 1.4.1980, in terms of Railway Board's letter dated 10.5.80 effecting reorganisation of the Accounts Department of Railways. While introducing Selection Grade to the extent of 20% of the posts in the ordinary grade, it was clarified that the Selection Grade posts would gradually replace the posts of Sub-Heads (Rs.425-700). As per extant instructions, pay on appointment to Selection Grade was fixed at the same stage in the new scale at which pay was being drawn in the old scale. With the introduction of 'Cadre Review and Restructuring of Groups 'C' and 'D' posts' vide Railway Board's letter dated 25.6.85, clerical posts in the Accounts Department were restructured as under:-

Clerks Grade I (Rs.330-560)	--	55%
Sub-Heads (Rs.425-700)	--	45%

Further, posts of Selection Grade Clerk Grade I (Rs.425-700) were to be discontinued. The restructuring was effective from 1.1.1984 on proforma basis but payments were effective from 1.1.1985. So, when the applicant became Sub-Head, his pay was fixed under Rule 2018-B (FR 22 C)

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of Railway Establishment Code II w.e.f. 1.1.1984 on proforma basis with actual payment from 1.1.1985.

4. Subsequently, the pay of the applicant was revised under office order No.48/94 dated 31.5.94 refixing his pay in the post of Sub Head at the same stage at which he was drawing pay as Selection Grade Clerk Grade I and an amount of Rs.8300/- was proposed to be recovered. This is the order impugned in this O.A.

5. Facts of the case are not in dispute. Learned counsel for the applicant has pleaded that firstly on being posted as Sub-Head, which is a supervisory post carrying with it higher responsibility, the pay of the applicant was initially correctly fixed under Rule 2018-B of Railway Establishment Code Vol.II (FR 22 C) and that the revision of the same at a much later date when the applicant had already retired (w.e.f. 31.10.93) was illegal particularly when it was done without prior notice to the applicant.

6. The respondents have asserted that the Selection Grade Posts of Clerks Grade I were introduced to replace the posts of Sub Heads, that both the posts carry the same scale of pay (Rs.425-700) and that the post of Sub Head does not carry with it any duties and responsibilities of greater importance as would attract the provisions of Rule 2018-B .

7. Relevant portion of
Rule 2018-B of Railway Establishment Code
(1973 Edition)
Volume.II, which is to the same effect as FR 22 C reads as
under:-

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"2018-B (F.R.22 C)- Notwithstanding anything contained in these rules where a railway servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the by increase above the pay notional of the lower post by sing his next at the stage at which such pay has accrued".

8. The short question to be answered is whether the last contention of the respondents is acceptable or not. Admittedly Selection Grade Posts were to replace the posts of Sub Heads. At the same time, when Selection Grade was introduced it was stated to be non-functional. However, with the introduction of the Reorganisation w.e.f. 1.1.84, the clerical staff in the Accounts Department was to comprise Clerks Grade I (55%) and Sub Heads (45%) only, and Selection Grade Posts were done away with. The contention of the respondents that the pay of the applicant on being granted Selection Grade and also on being designated as Sub Head later would be fixed at the same stage, would imply that the responsibilities of Clerks Grade I, Selection Grade Clerks Grade I and Sub Heads would be at the same level. This does not seem plausible. In this context, learned counsel for the applicant has drawn my attention to para 286 of the Report of the Third Central Pay Commission 1973, Volume II (Part-II) which is reproduced below:-

"Sub-Heads:- The posts of Sub Heads are filled by promotion of Clerks Grade I on the basis of seniority-cum-suitability. They provide the lowest supervisory level in the Accounts department and are usually in charge of a sub-section consisting of 9 to 12 Clerks. Their only promotional avenue is to the grade of Accountants/ Inspectors (Rs.270-575) subject to their passing the Appendix III-A examination".

Copy to:-

Reach, Calcutta-43.

2. The Secretary, Railway Board, Ministry of Railways, Union of India, Rail Bhavan, New Delhi-002.
3. The Financial Adviser & Chief Accounts Officer, S.E.Railway, Calcutta-43.
4. The Financial Adviser & Chief Accounts Officer(S&C), S.E. Railway, Visakhapatnam-004.
5. The Dy. Financial Adviser & Chief Accounts Officer(Workshops), S.E.Railway, Kharapur.
6. One copy to Sri. Y.Raja Rao, advocate, CAT, Hyd.
7. One copy to Sri. C.V.Malla Reddy, SC for Rlys, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

Rsm/-

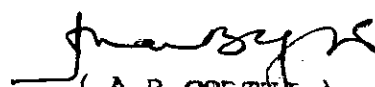
9. The above is an authentic indication to the effect that Sub Head is ^a promotional post to Clerks Grade I and that it carries with it supervisory functions also. The rule position as it existed prior to 30.8.1989 when F.R. 22 was amended, made no reference to scale of pay of the old and new posts. So long the new post to which the employee is promoted or appointed carried duties and responsibilities of greater importance than those attaching to the post held ~~by him~~ ^{the benefit of} Rule 2018-B of Railway Establishment Code Volume-II (FR 22 C)

10. In the above ^{view} that I am taking, I am supported by a decision of the Principal Bench of the Tribunal in B.D.Verma Vs. Union of India (1987) 4 ATC 499.

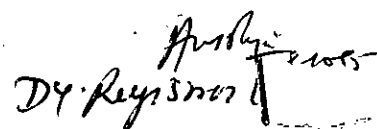
11. There is also merit in the contention of the applicant's counsel that the impugned order is bad in law as it was issued without prior notice and in breach of the principle of natural justice.

12. In the result, the impugned order, viz., South Central Railway Office Order No.48/94 dated 31.5.1994 is hereby set aside and the respondents are directed to fix the pay of the applicant in the post of Sub Head under Rule 2018-B of Railway Establishment Code Volume-II ^{1973 Edition} and give him all consequential benefits including revision of his pensionary benefits.

No order as to costs.


(A.B. GORTAI)
Member (Admin)

Dated: 29 September, 1995


Dy. Registrar

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

HON'BLE MR. A.B. GORTHI, ADMINISTRA-
TIVE MEMBER.

HON'BLE MR.
JUDICIAL MEMBER.

ORDER/JUDGEMENT:

DATED: 29/9/1995.

~~M.A./R.A./C.A.NO.~~

~~IN~~

O.A.NO.

686/ay

~~T.A.NO.~~

~~(W.P.NO.)~~

ADMITTED AND INTERIM DIRECTIONS ISSUED.

~~ALLOWED.~~

~~DISPOSED OF WITH DIRECTIONS.~~

~~DISMISSED.~~

~~DISMISSED AS WITHDRAWN.~~

~~DISMISSED FOR DEFAULT.~~

~~ORDERED/REJECTED.~~

~~NO ORDER AS TO COSTS.~~

* * *

Rsm/-

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