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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO.1121 of 1995.

Between

Dated: 22.11.1995.

1. S.S.A.Nagabhushanam.
2. P.Laxmi Narasimha Rao.
3. G.Ratan Gopal.
4. B.Natrajasagar.

...

Applicants

And

1. Senior Divisional Personnel Officer, Vijayawada Division, S.C.Railway, Vijayawada, Krishna District.
2. Divisional Railway Manager, S.C.Rly, Vijayawada Division, Vijayawada.
3. General Manager, S.C.Railway, Rail Nilayam, Secunderabad.

...

Respondents

Counsel for the Applicants

: Sri. M.C.Jacob

Counsel for the Respondents

: Sri. V.Bhimanna, SC for Rlys.

CORAM:

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

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

The relief claimed by the applicants is for a direction to the respondents to protect their pay in terms of Rule 1313 of the Indian Railway Establishment Code, Volume-II on the transfer from their respective Divisions to Vijayawada Division.

2. The applicants were working as Assistant Station Masters in various divisions in the scale of pay of Rs.1400-2300. On their request they were transferred to Vijayawada division where the post of ASM in the higher grade of 1400-2300 was not then available. Accordingly they were placed in the scale of pay of Rs.1200-2040. But their last pay drawn was not protected.

3. Heard learned counsel for both the parties.

4. Learned counsel for the applicants has drawn my attention to a judgement of this Bench of the Tribunal in OA.1252/94 wherein the applicants were similarly situated as the applicants herein. The said OA was decided on 14.11.94 with a direction to the respondents to fix the pay of the applicants therein by protecting their pay in accordance with para 1313 (a) (iii) of the IREC, Vol.II.

5. As the applicants before me are similarly situated to those in the afore-stated OA.1252/94. There is no reason why similar benefit should not be granted to the applicants.

6. During the hearing of the case learned standing counsel for the respondents has drawn my attention to an amendment to para 604 of Indian Railway Establishment Manual

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Volume.I 1989 Edition which has come into effect from 24.2.95. Vice the said amendment the following was inserted as sub-para (a) (iii) in 604 of IREM 1989 Edition:-

"When a Government servant, holding the higher post substantively on regular basis seeks transfer from that higher post to a lower post at his own request and the pay drawn in such higher post is less than or equal to the maximum of the scale of pay of the lower post, then the pay drawn in such higher post will be protected.

When a Government servant seeks transfer to a post from which he was promoted, it will be treated as a case of reversion and his pay will be fixed at a stage what he would have drawn, had he not been promoted.

When appointment on transfer from a higher post to a lower post is made on his own request under Rule 227 (a) (2)-RI (FR-15-A(2) and the maximum pay in the time scale of that post is lower than his pay in respect of the old post held regularly, he shall draw that maximum as his initial pay in accordance with FR 22 (1) (a) (3)."

(Authority Railway Board's letter No.F(E)-II/91/Misc-2 dated 24-02-1995).

7. Learned standing counsel has contended that the case of the applicant is covered by the 2nd paragraph of the amendment. A careful reading of the 2nd paragraph would indicate that it applies only to such a Government servant who seeks transfer to a post from which he was promoted (underlined for emphasis). In the instant case ^{anyone of} there is nothing on record to indicate that the applicant ¹ was working in Vijayawada Division in the lower grade of pay and came to Guntakal Division on promotion to the higher grade of pay in the post of ASM. Consequently what applies to the case in hand is para I under which the last pay drawn by the employee has to be protected. In any case, I find that the amendment having come into effect from 24.2.95, ^{it cannot} ~~need not~~ come in the way of my ^{deciding} ~~discussing the merits~~ of the case as already done in the preceding paragraphs.

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8. The O.A. is allowed at the admission stage itself with a direction to the respondents to notionally fix the pay of the applicant by protecting his pay in accordance with para 1313 (a) (iii) of IREC, Vol.II. Consequential monetary benefits accruing to the applicant will be calculated for the period ^{from} one year prior to the filing of this O.A. i.e. w.e.f. 1.11.1994.

9. O.A. is ordered accordingly. No costs.

A. B. GORTHI
(A. B. GORTHI) N
Member (Admn.)

Dated: 22nd November, 1995

(Dictated in Open Court)

Amulya
Amulya
Deputy Registrar (Judl.)

sd

Copy to:-

1. Senior Divisional Personnel Officer, Vijayawada Division, S.C.Railway, Vijayawada, Krishna District.
2. Divisional Railway Manager, S.C.Rly, Vijayawada Division, Vijayawada.
3. General Manager, S.C.Railway, Rail Nilayam, Secunderabad.
4. One copy to Sri. M.C.Jacob, advocate, CAT, Hyd.
5. One copy to Sri. V.Bhimanna, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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DA:112/195

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

HON'BLE MR. A.B. GORTHI, ADMINISTRATIVE MEMBER.

HON'BLE MR.

JUDICIAL MEMBER.

ORDER/JUDGEMENT:

DATED: 22/11/1995.

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

IN

O.A. NO.

112/195

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/-

No Spare Copy

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Central Administrative Tribunal
DESPATCH

12-DEC-1995 NOF

HYDERABAD BENCH.

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