

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
HYDERABAD

O.A.285/96 & 819/96

Date of decision: 30-7-2003

Between:

1. B.Yellaiah
2. A.Desilva
3. Sved Moin
4. B. Krishna Murthy
5. B. Dhanraj
6. Sitaram Singh
7. M. Satvanaravana
8. P.Krishna Rao
9. B.R.Aniaiah
10. G.P.Madan Mohana Rao
11. T.V.G.Rainikar
12. M. Balaji Singh
13. S.T. Balasubramanyam
14. K. Durgaprasad
15. A.R. Yadaiah
16. Sved Hussain
17. D. Decruze
18. N. Padmarao

..Applicants in
O.A. 285/96

1. K. Jesudanam
2. Shaik Peeran
3. Shaik Saheb
4. V. Christopher
5. G. Naravana
6. K. Javaraman
7. N.K. Ramaswamy
8. I. Corry
9. T. Ravindran
10. G.S. Kumar Singh

..Applicants in
O.A. 819/96

A N D

1. Union of India
through Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 110 001.
2. General Manager,
South Central Railway,
Rail Nilavam,
Secunderabad.
3. Chief Personnel Officer,
South Central Railway,
Rail Nilavam,
Secunderabad.

..Respondents in
both the OAs.

Counsel for the applicants :Mr.V.Venkateswara Rao for
Mr.G. Ramachandra Rao

Counsel for the respondents :Mr. N.R. Devraj, SC for
Railways in O.A. 819/96

Mr. V. Bhaskaranna, SC
for Railways in O.A. 285/96.

C O R A M:

THE HON'BLE MR. S.K. AGRAWAL, MEMBER (A)

THE HON'BLE MRS. BHARATI RAY, MEMBER (J)

O R D E R

(Per Hon. Mrs. Bharati Ray, Member (J))

The facts and prayer in the two OAs being similar they are being disposed of by a common order.

2. The applicants who were in different grades of Drivers in Secunderabad and Hyderabad division of South Central Railway were promoted to various posts in the Loco Supervisory category prior to 1.1.1986 and some of them have been working as Loco Supervisors and some are retired.

3. As a consequence of the recommendations of the IV Pay Commission, the then existing three scales of Loco Running Supervisory posts were merged into two as under:

- (i) Rs.550-750) Merged into one grade
- (ii) Rs.700-900) Revised to Rs.2,000-3200
- (iii) Rs.840-1040 Revised to Rs.2375-3500

Scales of pay of Drivers were revised as under :

- (i) Rs.550-750 Revised to Rs.1640-2900
- (ii) Rs.550-700 Merged into one
Rs.425-640 Revised pay scale Rs.1600-2660
- (iii) Rs.330-560 Revised to Rs.1350-2200

4. Due to the revised fixation of scales of pay after 1.1.1986, the Supervisory staff appointed prior to 1.1.1986 began to draw less pay than the juniors appointed to Loco Supervisory posts after the said date. To rectify the said anomaly, the Railway Board issued

proceedings dt. 16.9.1988 that the pay of the affected persons would be stepped up on par with their juniors. As the said benefit has not been extended to the applicants they approached this Tribunal for the following relief :

"For the facts stated in para 4 and the grounds raised in para 5 above, applicants pray that this Hon'ble Tribunal be pleased to issue orders or directions directing the respondents to step up the pay of the applicants in the Loco Supervisory posts on par with their junior Sri Virupaksha Rao with all attendant benefits including arrears of pay from the date when his junior was getting more pay than the applicants and pass such other orders as this Hon'ble Tribunal deems fit."

5. This Tribunal observed that the facts of the two OAs are similar to the facts contained in OA 534/91 which was disposed of on 21.7.1995 with the following order :

"The respondents are directed to apply the orders of the Railway Board dated 16.9.1988 for stepping up the pay of each of the applicants and to bring it at par with that of their junior promoted after 1.1.1986. Respondents shall comply with this order within a period of 4 months from the date of communication of this order."

6. Therefore this Tribunal disposed of these two OAs on 22.9.1997 following the decision in OA 534/91 as under :

"The respondents are directed to apply the orders of the Railway Board dated 16.9.1988 for stepping up the pay of each of the applicants in these two OAs and to bring it on par with that of their junior promoted after 1.1.1986. Respondents shall comply with this order within a period of four months from the date of communication of this order."

7. Respondents approached the Hon. High Court against the said order of the Tribunal dt. 22.9.1997. The respondents referred the decision of the Apex Court

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of India in the case of Union of India vs. O.P. Saxena in which it was held that stepping up of pay cannot be allowed for the personnel, who were promoted from the post of Driver to the post of Loco Supervisor as the source of promotion is different. The Hon'ble High Court observed that this Tribunal without considering the Railway Board proceedings dt.14.9.1990, although it was brought to the notice of the Tribunal, disposed of the OAs following the judgment of the Tribunal in OA 534/91 and remitted back the case to the Tribunal for decision after hearing both the parties.

8. Learned counsel for the applicants submit that this Tribunal has disposed of the OAs following the decision in OA 534/91 and it is clear from the judgment of OA 534/91 that the Tribunal has considered Railway Board proceedings dt. 14.9.1990 while disposing of the OA 534/91. He further submitted that OA 534/91 was challenged before the Hon. Supreme Court and the SLP was dismissed by the Hon. Supreme Court and therefore the order of the Tribunal in OA 534/91 has reached its finality.

9. Learned counsel for the respondents, however, submits that the said SLP was not decided on merit but was dismissed on the point of limitation. Therefore, the order of the Hon. Supreme Court cannot be treated as judgment-in-rem and it applies only to the applicants in the said OA. In this context he has drawn our attention to the judgment of the Apex Court of India in the case of

Union of India vs. O.P. Saxena, AIR 1997 SC 2978. On going through the judgment we find that the Hon. Supreme court has expressed its opinion on the application of Railway Board letter dt. 14.9.1990 and the same is reproduced below :

"10. In our opinion, the decision of the Tribunal directing stepping up of the pay of the respondents herein was not correct. It had been clarified by the Ministry of Railways in its letter dated 14th September, 1990 that the principle of stepping up referred to in its earlier letter of 16th August, 1988 was "subject to codal conditions being fulfilled". The principle of stepping up of pay is contained in Rule 1316 of Indian Railway Establishment Code, Vol. II which also contains conditions which have to be followed while ordering stepping up. Two of the conditions contained therein are :

(a) Both the senior and junior officers should belong to the same cadre and the post in which they have been promoted on a regular basis should be identical in the same cadre:

(b) The scales of pay of the lower and higher posts in which they are entitled to draw should be identical."

10. In view of the above observations it is clear that in order to get the benefit of Ministry of Railways letter dtd. 16.8.1988 the conditions mentioned above are to be fulfilled. That being the position, we are of the view that it requires examination of the case of each applicant to find out as to whether they have fulfilled the conditions mentioned in the Railway Board proceedings dt. 14.9.1990 in order to get the benefit of Railway Board proceedings dt. 16.8.1988.

11. In view of the above facts and circumstances and the above observations and having regard to the observation made by the Apex Court of India in the case of Union of India vs. O.P. Saxena. we dispose of the OAs with the following directions:

"Respondents shall examine the case of the applicants for stepping up of pay in terms of Railway Board letter dt. 16.8.1988 read with Railway Board proceedings dt. 14.9.1990 and keeping in mind the above observations, shall pass appropriate order within a period of four months from the date of communication of this order."

12. The OAs are disposed of accordingly with no order as to costs.

Bharati Ray
(BHARATI RAY)
Member (J)

S.K. Agrawal
(S.K. AGRAWAL)
Member (A)

md

W. R. J.
9/8/03
(J)