

O.A. NO. 1012 OF 1997

**Between:**

B. Hanuma Reddy

...

APPLICANT

And

The Senior Divisional Personnel Officer, South Central Railway, Vijayawada Division, Vijayawada, Krishna District & 2 Others. ...

## RESPONDENTS

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

I, Mrs. Pramila H. Bhargava, W/o Rajat Bhargava, aged about 32  
Occupation Government service do hereby affirm and state as follows:-

I am the Senior Divisional Personnel Officer, South Central Railway, Vijayawada in the Office of the Divisional Railway Manager, Vijayawada and dealing with the subject matter, and as such I am well acquainted with the facts of the case. I am filing this reply counter on behalf of the respondents as I have been authorised to do so. The material averments in the O.A are denied save those that are specifically admitted hereunder. The applicant is put to strict proof of all such averments except those that are specifically admitted hereunder:

In reply to various averments of the O.A., it is submitted that:

(1) The applicant herein was working in Grade Rs.1400-2300 (RSRP) on Guntakal Division and had come on reversion as ASM in the lower grade of Rs.1200-2040 (RSRP) to BZA Division on Inter-Divisional request transfer. The pay in the lower grade of Rs.1200-2040 (RSRP) on joining BZA Division on reversion was fixed at a stage which would have been drawn by him had he continued in the recruitment grade of Rs.1200-2040 (RSRP) on his parent Division. The applicant herein had filed O.A No.997/96 before this Hon'ble Tribunal relying upon this Hon'ble Tribunal's judgment in O.A No.1252/94 (O.A. No.1252/94 does not pertain to BZA Division) for protection of pay drawn in higher grade of Rs.1400-2300 (RSRP) on his parent Division on joining the lower grade post of ASM in scale Rs.1200-2040 (RSRP) on BZA Division. The Hon'ble Tribunal directed the respondent Railway Administration to dispose of the representation in accordance with the rules taking due note of codal provisions i.e., Para 1313 (a) 283 of IREC Vol.II and also taking due note of directions in the similar O.A.

Assistant Personnel Officer

ATTESTOR: *[Signature]*  
V. *[Signature]*

वरिष्ठ अधिकारी

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Sr. DIVISIONAL PERMANENT OFFICE  
S. C. RLY CANADA

(2) In pursuance of the above orders, his case was examined with reference to the relevant rules and administrative instructions. In terms of Rule 1313 (3) (after amendment circulated through Serial Circular No.177/91),

"When appointment to the new post is made on his own request and the maximum pay in the time scale of that post is lower than the pay in respect of the old post held regularly, the maximum shall be drawn as initial pay."

In respect of the applicant herein, it is submitted that the maximum pay in the time scale of the new post is not lower than the pay drawn in respect of old post and as such Rule 1313 (3) is not applicable to the applicant. However, in terms of instructions issued by Railway Board's letter dt.24-2-95, (Circulated under Serial Circular No.39/95), a new Sub-Para (3) is inserted under Para-604 of the I.R.E.M (1989) which reads as under:

" 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."

(3) The provisions of the newly introduced Sub-Para were clarified by Serial Circular No.95/96, issued by S.C.Railway. In terms of the clarifications and examples cited in the above circular, the pay of the applicant was fixed at a stage in the lower grade which would have been drawn by him, had he continued in the same grade from the date of appointment duly allowing the difference between the pay drawn by him in the higher post on his parent Division and the pay now fixed as personnel pay absorbable in future increases of pay. For example, if an employee was drawing Rs.1440/- in the higher grade of Rs.1400-2300 (RSRP) on his parent Division and if his pay would have been Rs.1290/- in grade Rs.1200-2040 (RSRP) had he continued in the same grade, his pay was fixed at Rs.1290+150 in the lower grade of Rs.1200-2040 (RSRP) even though the stage of Rs.1440/- is available in the lower grade post

of Rs.1200-2040 (RSRP)  
Assistant Personnel Officer  
S.C. RAILWAY  
ATTESTOR VIJAYAWADA.

वरिष्ठ मंडल कर्मचारी अधिकारी  
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Sr. DIVISIONAL PERSONNEL OFFICER  
DEPONENT  
S. C. RLY VIJAYAWADA

(4) The applicant herein contends that the instructions of the Railway Board's letter dt. 24-2-95 (S.C. No. 39/95) and the subsequent clarifications issued thereon by the S.C. Railway under Serial Circular No. 95/96 would come into force only from the date of issue of the said letter i.e. 24-2-95 and would not apply to the applicants who had come on transfer earlier to the said date. In this connection, it is submitted that in terms of Para 6 of S.C. No. 95/96, the said provisions would apply to all cases to be settled on or after 24-2-95 and past cases, if any, decided otherwise than in accordance with the said guidelines need not be re-opened. In case of the applicant herein, the pay fixation was taken up after 24-2-95 even though he had come on transfer prior to 24-2-95. The fixation of pay of the applicant based on the instructions contained in Board's Ir. dated 24-2-95 and the clarifications issued under S.C. No. 95/96 is, therefore, in order.

(5) It is submitted that the protection of pay is afforded in all such cases, but what is contested by the applicant is the manner in which pay is to be protected. It is understood that a reference has been made by the Headquarters Office to the Railway Board regarding the mode of protection of pay and reply is awaited. The cases would be reviewed in the light of instructions that may be received, if such a review is warranted.

For all the above stated reasons, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the O.A. and pass such other order/orders as it deems fit in the facts and circumstances of the case.

Sworn and signed this 8th day,  
October, 1997 at Vijayawada  
before me.

DEPONENT.  
वरिष्ठ मंडल कार्यालय अधिकारी

रेलवे, विजयवाड़ा  
Sr. DIVISIONAL PERSONNEL OFFICER  
S. C. RLY. VIJAYAWADA

ATTESTOR.  
Assistant Personnel Officer  
S. C. RAILWAY  
VIJAYAWADA