

FORM NO. 21.

(Sec. Rule 114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

O.A / ~~...~~ 1229/97 199

..... K. Vijaya Kumar Applicant(s).

Versus

..... In S.O. D.O. Suly, Vijayawada 20th Respondent(s).

INDEX SHEET

Serial No. Description of documents and dates. Pages.

Docket orders.

Interim Orders

Orders in M.A(S)

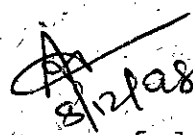
Reply State, emt.

Rejoinder

ORDERS IN (Final orders)

10-11-98 31 to 35

Certified that the file is Completed
in all respects.


Signature of dealing Head.
(in Record Section)

Signature of S.O.

Central Administrative Tribunal Hyderabad Bench; Hyderabad.

C.A. No. 1229 of 1997.

K. Vijaya Kumar Applicant(s).

VERSUS.

In Sr. Div. Personnel Officer, Sd/- Vijayawada
2nd (Respondents).

Date	Office Note.	ORDER
------	--------------	-------

18-9-97

Heard Sd/- AC Jacob for the applicant and Sd/- V. Rajeshwar Rao for the respondents.

a. Admit.

16-
HBSJP
M(S)

HRAW
M(A)

Admit/Notice
By
22/9/97
Issued
6/10/97

31-3-98

None present. All respondents served. Reply filed on behalf of all respondents. Call on 14-4-1998 for rejoinder if any.

[Signature]
Dy. Regr.

16/4/98

none present. no
Rejoinder filed
Include it in the
Ready list of 1998.
[Signature]
Dy. Regr.

[Signature]

10-11-98

OA disposed of. Orders per separate sheet. No cmts.

9-
HHRP
M(A)

HDRP
VC (A)

11. Have legible copies of the annexure duly attested been filed. Yes
12. Has the applicant exhausted all available remedies. Yes
13. Has the Index of documents been filed and pagination done properly. Yes
14. Has the declaration as required by item No. 7 of Form. I been made. Yes
15. Have required number of envelopes (file size) bearing full addresses of the respondents been filed. Yes
16. (a) Whether the relief sought for, arise out of single cause of action. -
(b) Whether any interim relief is prayed for, Yes
17. (c) In case an MA for condonation of delay is filed, is it supported by an affidavit of the applicant. -
18. Whether this cause be heard by single Bench. -
19. Any other points. -
20. Result of the Scrutiny with initial of the scrutiny clerk. May be filed

As 16/9/97
Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

....

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Sl. No. 2986/97

Report in the Scrutiny of Application.

Presented by Mr. M.C. Jacob Date of Presentation. 16/9/97

Applicant(s) K. Vijaya Kumar

Respondent(s) The Sr. Divl. Personnel Office, Sr Rly
Vijayawada 5200

Nature of grievance Protection of Pay

No. of Applicants 1 No. of Respondents 3

CLASSIFICATION.

Subject.....No Department.....Railways... (No)

1. Is the application in the proper form,
(three complete sets in paper books form
in two compilations). yes
2. Whether name description and address of all the
parties been furnished in the cause title. yes
3. (a) Has the application been fully signed and verified. yes
(b) Has the copies been duly signed. yes
(c) Have sufficient number of copies of the application
been filed. yes
4. Whether all the necessary parties are impleaded. yes
5. Whether English translation of documents in a language
other than English or Hindi been filed. -
6. Is the application on time, (See Section 21). yes
7. Has the Vakalatnama/Memo of Appearance/Authorisation
been filed. yes
8. Is the application maintainable.
(U/S 2, 14, 18, or U/R. 8 Etc.,) yes
9. Is the application accompanied IPO/DD, for Rs.50/- yes
10. Has the impugned order's original, duly attested legible
copy been filed. yes

P.T.O.,

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

I N D E X S H E E T

C A No. 1229 of 1997.

CAUSE TITLE K.V. Kumar

V E R S U S

A Ss D.P.O, Sri vijayawada & 2 others

SL.NO.	Description of Documents	Page No
--------	--------------------------	---------

1.	Duplicate Application	1 to 6
----	-----------------------	--------

2.	Material Papers.	7 to 21
----	------------------	---------

4.		
----	--	--

5.		
----	--	--

6.		
----	--	--

Ref statement filed by M.V.
Ravi Varan on 14/10/97

Regd. - To direct the respondents to fix the pay of the applicant at Rs 1530/- in the scale of pay of Rs 1200-2040 on consequent to his request transfer from Hyd Division to Vijayawada division

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::ADDITIONAL BENCH
AT HYDERABAD

Bench case

Protection of Pay

Railway (C)

RAILWAY

O.A.No. 1229 of 1997

Between:

K.Vijayakumar

.. Applicant

AND

Sr.Divisional Personnel Officer,
S.C.Rly,Vijayawada & 2 others

.. Respondents

CHRONOLOGY OF EVENTS

<u>Date</u>	<u>Events</u>
21.05.1986	Appointed as ASM in Hyderabad Divn;
08.02.1989	Promoted to Gr.1400-2300(RSRP)
13.08.1992	Joined Vijayawada Divn on request transfer
16.08.1996	Order in OA 996/96 by the Hon'ble Tribunal
30.10.1996	Revised fixation of pay.

Hyderabad,

14.09.1997

Counsel for the applicant.



Recd
Vijay
Ans Rly
16.9.97

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::ADDITIONAL BENCH
AT HYDERABAD

O.A.No. 1229 of 1997

Between:

K.Vijayakumar .. Applicant

AND

Sr.Divisional Personnel Officer,
S.C.Railway,Vijayawada and 2
others. .. Respondents

I N D E X

<u>Sl.No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page</u>
1.		Original Application	1 - 6
2.	I	YP/676/IDT/ASMs dt.5.8.92	7
3.	II	Last pay Certificate dt.24.8.92	8 - 9
4.	III	Order in OA 996/96 dt.16.8.96	10-12
5.	IV	Pay fixation dt.30.10.96	13-14
6.	V	Pay fixation dt.13.05.96	15-17
7.	VI	Order in Nalinikanta Sahoo Vs UOI ASLJ 1997(1) CAT, 1997	18-21

Hyderabad,

14.09.1997

Counsel for the applicant.

(4)

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985

For use in Tribunals Office

Date of filing :

Signature of Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::ADDITIONAL BENCH
AT HYDERABAD

O.A.No. 1229 of 1997

Between:

K.Vijayakumar, S/o K.Subbarao,
aged about 35 years, working as
Goods Guard, Rajahmundry, S.C.Rly,
Vijayawada Division. .. Applicant

AND

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

The address for service of all notices and
processes of the applicant is that of his counsel
M.C.Jacob, Advocate, 3-5-926/19/A, Himayat Nagar, Hyderabad.

The address for service of all notices and
processes of the respondents are the same as shown in
the cause title.

DETAILS OF APPLICATION

1. Particulars of the order against which application is made:

- (i) Order No. : B/P.524/VI/SM-ASM/Vol.3
- (ii) Date : 30.10.1996
- (iii) Issued by : Sr.Divisional Personnel Officer,
S.C.Railway,Vijayawada Division.
- (iv) Subject in : Revision of fixation of pay by
Brief keeping additional amount as
personnel pay instead of merging
in the basic pay.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal under section 14 of the Administrative Tribunals Act, 1985.

3. Limitation:

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985 as the impugned order is passed on 20.10.1996.

4. Facts of the case:

The applicant joined railway service as an Assistant Station Master in Gr.1200-2040(RSRP) on 21.5.1986 in the Hyderabad Division of S.C.Railway. Subsequently he was promoted to the next higher grade of 1400-2300(RSRP) on 8.2.1989. In the meanwhile he sought inter divisional transfer on request under rule 227(a) of Indian Railway Establishment Code, Vol.I (IREC) to the Vijayawada Division of the same railway and the same was agreed to vide proceeding No.YP/676/Inter Divl Transfer/ASMs dated 5.8.92 as per the conditions laid down in Rule 226 of I.R.E.C, Vol.I and the applicant joined the Vijayawada Division on transfer on 13.8.1992. (Annexure-I at page 7)

6

At the time of said transfer the pay of the applicant as per the last pay certificate issued by the Divisional Railway Manager, Hyderabad Division dated 24.8.92 was Rs.1520/- in the grade of Rs.1400-2300(RSRP). The last pay certificate of the applicant is filed as Annexure-II at page 8-9.

4.2 It is submitted that in Vijayawada Division the pay of the applicant was fixed at Rs.1350/- without following the rules regarding fixation of pay on request transfer and aggrieved by the above said fixation applicant along with five others filed OA 996/96 and the Hon'ble Tribunal by order dated 16.8.96 directed second respondent therein ie; Divisional Railway Manager, Vijayawada Division to dispose of the representation of the applicant pending with the said authority within three months and if a favourable decision is taken he is eligible for arrears only from 22.7.95. The order copy is filed as Annexure-III at page 10-12.

4.3 In compliance of the above said direction, the first respondent re-fixed the pay of the applicant vide proceeding No.B/P.524/VI/SM-ASM dt. 30.10.1996 by keeping Rs.1350/- as basic pay and Rs.170/- as personnel pay to be absorbed in future increments instead of fixing at Rs.1530/- which is the appropriate stage in the lower grade. The impugned revised fixation is at Annexure-IV at page 13-14. It is submitted that in the case of other ASMs who came along with the same applicant from Hyderabad Division to Vijayawada Division on the same order of transfer dt. 5.8.92, the first respondent vide proceeding No.B/P.524/VI/SM-ASM/Vol.3 dt.13.5.96 fixed the pay ~~at the~~ at the appropriate stage in the lower grade. As there was no change in the rule regarding the fixation of pay, the authorities ought to have fixed the pay of the applicant

(7)

at the stage of Rs.1530/- in the pay scale of Rs.1200-30-1560-EB-40-2040 instead of Rs.1350 + 100 PP (Annexure IV at page 15-17) It is also learnt that the applicants in OA 1252/94 were also given fixation of pay without any addition of personnel pay. as such the impugned order of fixation is contrary to rules and discriminatory. It is further submitted that at present the applicant is working as a goods guard from 20.7.94 in the same scale of 1200-2040.

5. Grounds for relief with legal provisions:

5.1 The initial fixation of pay of a railway servant who is appointed to a post on a time scale of pay is regulated by Rule 1313 of the IREC, Vol. II. As per Rule 1313 (a)(3), when appointment is made on his own request he is eligible to draw ~~up~~ pay only up to the maximum in the earlier post in the lower grade even if his pay is more than the maximum of the lower grade. As the appointment in this case does not involve assumption of duties and responsibilities of greater importance, he shall draw as initial pay the stage of the time scale which is equal to his pay in respect of the old post held by him on regular basis and if there is no stage, the pay has to be fixed at the stage next above in respect of the old post held on regular basis. As there is no stage of Rs.1520/- in the lower grade of Rs.1200-30-1560-EB-40-2040, the pay has to be fixed at the stage next above i.e. 1530/- by duly adjusting the date of increment.

5.2 In OA 1252/94, this Hon'ble Tribunal directed the respondents therein including the third respondent herein to protect the pay of the applicants as per Rule 1313 (a)(iii) of IREC, Vol. II and the same was upheld by various other benches of this Hon'ble Tribunal also.

The Hon'ble Tribunal, Cuttack bench order dt. 12.8.96

in Nalinikanta Sahoo and others Vs Union of India reported in ASLJ 1997(1) (CAT) Page 191 to 194 further confirmed the right to have protection of pay on transfer on one's own request and extended the same to an adhoc promotee also. A copy of the said order is at Annexure V at page 18-2). In view of the above the impugned proceedings dt. 30.10.96 is contrary to the rules in force and also against the law laid down by the courts. As per the rules the pay of the applicant has to be fixed at Rs.1530/- and the impugned order of fixation is illegal unjust and arbitrary.

6. Details of the remedies exhausted:

The applicant declares that his representation to the authorities resulted in the impugned proceedings as such he had no other alternative effective remedy other than to approach this Hon'ble Tribunal.

7. Matters not previously filed or pending with any other court:

The applicant declares that OA 996/96 filed by the applicant was disposed of on 16.8.96 and the impugned proceeding was issued on the direction on the said OA and as such no other proceeding is pending with any other authority, or any other bench of this Tribunal.

8. Relief Sought:

The applicant respectfully prays that this Hon'ble Tribunal may be pleased to direct the respondents to fix the pay of the applicant at Rs.1530/- in the scale of pay of Rs.1200-2040(RSRP) as per Rule 1313 (a)(2) and (3) of the Indian Railway Establishment Code, Vol.II consequent to his request transfer from Hyderabad Division to Vijayawada Division of S.C.Rly with effect from 13.8.92 and with arrears of pay

(9)

with effect from 22.7.95 as directed by this Hon'ble Tribunal in OA 996/96 dated 16.8.96 after declaring the proceedings of the first respondent No. B/p.524/VI/SM-ASM/Vol.3 dated 30.10.96 fixing the pay of the applicant at Rs.1350/- with Rs.170/- as personnel pay as illegal, unjust, arbitrary and contrary to rules,

and pass such other order or orders deemed fit and proper to meet the ends of justice.

9. Interim Relief:

From the facts and circumstances of the case, the applicant does not seek any interim order.

10. In the event of application send by Regd. Post

Not applicable.

11. Particulars of the Application fee.

- i) Postal Order No. & Date : 8.12 679568 dr 5.8.92
ii) Name of the post office : Pandam Blawan

Rs. 50/-

12. List of enclosures:

1. Material paper booklet 2. Vakalat and covers.
3. Postal order for Rs.50/-

IN VERIFICATION

I, K. Vijayakumar, S/o K. Subba Rao, aged about 35 yrs, working as Goods Guard, Rajahmundry, S.C. Railway, Vijayawada Division do hereby verify that the contents stated above are true and correct and I have not suppressed any material facts.

Hence verified.

Hyderabad,

14.09.97

Signature of the applicant.

Counsel for the applicant.

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::ADDITIONAL BENCH
AT HYDERABAD

O.A.No. 1229 of 1997

Between:

K.Vijayakumar

.. Applicant

AND

Sr.Divisional Personnel Officer,
S.C.Rly,vijayawada and 2 others. .. Respondents

MATERIAL PAPERS

<u>Sl.No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page</u>
1.	I	YP/676/IDT/ASMs dt.5.8.92	7
2.	II	Last pay certificate dt.24.8.92	8 - 9
3.	III	Order in OA 996/96 dt. 16.8.96	10- 12
4.	IV	Pay fixation dt.30.10.96	13- 14
5.	V	Pay fixation dt.13.05.96	15- 17
6.	VI	Order in Nalinikanta Sahoo Vs UOI	18- 21

Hyderabad,

14.09.1996

Counsel for the applicant.

ANNEXURE - 1

SOUTH CENTRAL RAILWAY

Office of the Divisional Railway Manager/Personnel.
Hyderabad Divisionak, Secunderabad.

No.YP/676/Inter Divl.Tfr./ASMs

Dt:5-8-1992.

S.O.O.No. 33/ET.III/92.

Sub: Inter Divisional transfer of ASMs.

Ref: SPO(T)/SC'S DO letter No.P.(Trg./563/pro.ASMs
dt. 18-05-1992.

.

Sanction of the competent authority is hereby accorded to the transfer of the under mentioned ASMs Gr.I in scale Rs.1400-2300 (RSRP) as per their request on bottom seniority in the recruitment grade of Rs.1200-2040 (RSRP) to BZA Division under the usual terms and conditions governing such transfers.

S.No.	Name (S/Sri)	Design. & Grade PS/RSRP	Station.	Transferred to Divn
1.	Gopalakrishna Patnaik	ASM.I 1400-2300 (UOT-to MUE.)	Kodi	BZA Divn.
2.	M.V.S. Gurunath	" "	PAU	"
3.	D. Vidyasagar	" "	PTU	"
4.	T. Sreehari	" "	GLY	"
5.	M. Venkataramana	" "	MUE	"
6.	D. Nageswara Rao	" "	MUE	"
7.	T.V.S. Narayana	" "	PNE	"
8.	K. Vijayakumar	" "	J	"

The above employees will rank juniors to all the temporary/permanent ASMs in Scale Rs.1200-2040 (RSRP) on the date of joining the new division.

They will not seek retransfer to their parent unit/Divn. at a later date.

They should be prepared to work any where in the division. There are no DAP/SPE/Vig. cases pending against them on the date of their relief. They are not eligible for any transfer facilities such as TA/DA, pass, joining time etc. The above employees may be relieved accordingly with instructions to report to DRM (P) BZA and this office advised. They should vacate Rly. quarters if in occupation before effecting transfer to BZA division.

Sd/-

for Divl.Personnel Officer/HYB/Divn.

Up
17-12-92
Control

Sd/-

Divl.Rly.Manager/HYB.

सुदूर पूर्व रेलवे SOUTH CENTRAL RAILWAY

आवक व प्रेषण लेख PAY CERTIFICATE

OPG

K. Vijaya Kumar

(Main Office)

DRM/P/1113

ASN I / Janna

500 No 33/ET/ID/92 dt 5-8-92

OPG

Reason for transfer on transfer of duty...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

For amount of gratuity payable...

PF No 10060753

Pay 1520-00

DA 1079-00

1520

1079

2599 00

PF
PFA.
HR.
CMTD -
el. Sec -
PFA
PFA
SIS

127
200
050
090
230
000
000
000
000

848 00

The following sums are outstanding against...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

Certified That employee is leaving 15 days L.A.P.
10 days L.H.A.P. at his Credit on 26 8 92

9

13

Gross salary		Amount		Amount		Amount	
Payable for the month of		Amount		Amount		Amount	
Month	Year	Rs.	P.	Rs.	P.	Rs.	P.
March	19						
April	19						
May	19						
June	19						
July	19						
August	19						
September	19						
October	19						
November	19						
December	19						
January	19						
February	19						

K. Vijaya Kumar
AS N/3dura

First Pay certificate of
Proceeding on transfer
To B2A/12M.

retiring on Pension

49/676/mtr Divn Tel

5/8/92

Forwarded to the

for Divl Rly. Manager
Hyderabad (MG) Divn
G. O. Railway, Secunderabad
with a Copy forwarded to

- ① Salary has been drawn up to AUG 1992 and from Sep 92 onwards may be drawn at your R.
- ② Restral advance of Rs 600/- was drawn through March 92 S/bill 5 instalments recovered and due 5 instalments Rs 300/- to be recovered at your R.
- ③ Rly quarter vacated on 11-8-92

forwarded to the

Railways
for Divl Rly. Manager
Hyderabad (MG) Divn
G. O. Railway, Secunderabad

10
17c fees
C. V. R. R. R.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 996/96

DATE OF ORDER : 16-08-1996.

Between:

1. V. Adinarayana Reddy
2. Bade Suresh Babji
3. V. Durga Prasad
4. N. Subhasilas
5. M. Radha Krishna Rao
6. K. Vijaya Kumar

Applicants

and

1. Sr. Divisional Personnel Officer,
SC Railways, Vijayawada Division,
Vijayawada, Krishna District.
2. Divisional Railway Manager,
SC Railway, Vijayawada Division,
Vijayawada, Krishna District.
3. General Manager, SC Railway,
Rail Nilayam, Secunderabad.

Respondents

.....

Counsel for the applicants : Shri B. Narasimha Sarma

Counsel for the Respondents : Shri P. Siva Reddy, CGSC

.....

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (A)

.....

//

15

: 2 :

(Oral Orders per Hon'ble Shri R. Rangarajan, Member(A)).

.

There are six applicants in this OA. The Applicants 1 and 2 came to Vijayawada Division on request transfer from Hubli Division. Applicants 3 and 4 came to Vijayawada Division from Guntakal Division whereas applicants 5 and 6 came to Vijayawada Division from Hyderabad Division. Their dates of joining in Bazawada Division and their pay fixation in the grade of Rs. 330-560/1200-2040 when they joined in the grade of Rs. 1200-2040 in that division is shown in Annexure-1 statement. The pay they were drawing in the grade of 330-560 and Rs. 1200-2040 are also shown in that statement. It is further stated that applicants 4 and 6 who were joined in Vijayawada Division as ASMs in the scale of Rs. 1200-2040 on request transfer, later switched over to the cadre of senior clerk and Goods Guard respectively. Applicant No. 5 is yet to be promoted to the grade of Rs. 1400-2300 in Vijayawada Division.

2. The applicants submitted representations at Annexures- XII, XIII, XIV, XV, XVI and XVII for protecting their pay which they were drawing in the nextwhile division while joining in Vijayawada Division in the grade of Rs. 1200-2040. It is further avarred that these representations are yet to be replied.

3. In the above circumstances this O.A. is filed praying for a direction to the Respondent No. 2 to fix their pay in accordance with Rule 1313 of IREC Vol. II on

: 3 :

the similar to the direction given in OA 1252/94 on the file of this Bench.

4. In a similar OA No.713/96, it was directed by this Tribunal by the judgement dt.7-8-96 to dispose of the pending representations in the case of the applicants therein. As the applicants in this O.A. have also submitted their representations and as their representations are still pending, direction to dispose of the representations of the applicants in accordance with the Law will meet the ends of justice.

5. In the result, the following direction is given:-

"Respondent No.2 should dispose of the representations of the applicants enclosed as Annexures XII, XIII, XIV, XV, XVI and XVII to the OA in accordance with the Law taking due note of Rule 1313 of IREC Vol.II and also taking due note of the directions given in OA 1252/94 on the file of this Bench."

6. Time for compliance is three months from the date of receipt of a copy of this order. In case the applicants gets a favourable decision from the Respondent No.2, they are entitled for the arrears only with effect from 22-07-95 (This OA was filed on 22-07-96).

7. O.A. is ordered accordingly at the admission state itself. No order as to costs.

Sd/-

COURT OFFICER
Central Administrative Tribunal,
Hyderabad Bench.

Handwritten signature and text:
Sd/-
M. S. G. S.
and for M. S. G.

// True copy //

SOUTH CENTRAL RAILWAY

Office of the Divl. Rly. Manager,
(Personnel Branch)/Vijayawada.

No. B/P.524/VI/SM-ASM/Vol.3.

Date: 30-10-1996.

M E M O R A N D U M

In compliance with the Judgements passed by the Honourable CAT/HYB IN THE OAs as mentioned the pay of the following ASMs who had come on Inter Divisional transfer from other divisions to BZA division on reversion from grade Rs.1400-2300 (RSRP) to grade Rs.1200-2040 (RSRP) as mentioned against is refixed in grade Rs.1200-2040 (RSRP) duly protecting the pay drawn by them in grade Rs.1400-2300 in their parent divisions in terms of CPO/SC's serial circular No.95/96.

They are eligible for arrears from the dates shown against each as per the Judgement pronounced in favour of the applicants by the Hon'ble CAT/HYB.

STATEMENT SHOWING THE PAY FIXATION OF ASMs WHO WERE JOINED FROM OTHER UNITS/RAILWAYS AND WHOSE FAVOUR JUDGEMENT DELIVERED BY THE HON'BLE CAT/HYB IN DIFFERENT OAs IN REGARD TO PAY PROTECTION IN ACCORDANCE WITH CPO/SC's S.C.NO.95/96.

Name of the employee. Design. & Station	Date of promotion to grade Rs.425-640/ 1400-2300 on parent Division.	Pay which he was drawing on the date of relief on his parent division in gr.Rs.1400-2300.	Pay already fixed on BZA division in grade Rs.1200-2040/ 1400-2300 from the date of joining on BZA Division in terms of CPO/SC's No.95/96.	Pay now refixed in gr.Rs.1200-2040/ 1400-2300 from the date of joining on BZA Division in terms of CPO/SC's No.95/96.
		Pay & Date. Rs.	Pay. Grade Date Rs. Rs.	Pay Grade Date Rs. Rs.
(1)	(2)	(3)	(4)	(5)

1 to 5

Contd.. 2.

(1)	(2)	(3)	(4)	(5)
6. K. Vijayakumar, (ex.ASM/KVR) OA No.996/96. Goods Guard/RJY waf.30-07-94.	1400 8-2-89	1520 1-2-92	1350 1200-2040 1380 1410	13-08.92. 01-11-92 01-11-93 (Tfd. as Goods Guard on 20-07-94) on FP incentive scheme)
(Ex.HYB division) Eligible for arrears if any only from 22-07-95.			1490+80PP 1470+50PP 1500	01-11-94. 01-11-95. 01.05-96.
7 to 18

NOTE: Further annual increments may be regulated for which they are entitled is any penalty already imposed and which are to be effected in the above cases may be modified, if necessary and to be implemented.

(S. TAMILCHOLAI)
APO/T.

/Sr. Divl. Personnel Officer.,
Vijayawada.

M. C. Jach
Amul for K. G. M. S.

2

No. B/P. 524/VI/SM-ASM/Vol. 3.

DRM/P/Office/BZA
Dt. 13-05-1996.

They are eligible for arrears from the dates shown against each as per the judgements pronounced in favour of the applicants by the Honourable CAT/HYB.

[illegible]

(2)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
12.	1587/95	D. Nageswara Rao, (Ex.HYB Divn)	ASM/ GIP	1520	1400- 2300	1-8-92	1350	1200- 2040	28.08.92	1500+20PP	1200- 2040	28.08.92	*
							1380	"	01.05.93	1530	"	01-08-93	
							1410	"	01.05.94	1560	"	01-08-94	
							1440	"	01.05.95	1640	"		
							1480	1400- 2300	26-07-95		1400- 2300	26-07-95	
		* He is eligible for arrears only from 01-12-1994 onwards.											
14.	1587/95	T.V.V.S.Narayana, (Ex.HYB Division)	ASM/ BTTR	1520	1400- 2300	1-7-92	1350	1200- 2040	28-08-92	1500+20PP	1200- 2040	28-08-92	*
							1380	"	01-05-93	1530	"	01-07-93	
							1410	"	01-05-94	1560	"	01-07-94	
							1440	"	01-05-95	1600	"	01-07-95	
							1480	1400- 2300	04-11-95	1680	1400- 2300	04-11-95	
		* He is eligible for arrears only from 01-12-1994 onwards.											
15.	297/96	M.V.S. Gurunath, (Ex.HYB Division)	ASM/ BTTR	1520	1400- 2300	1-7-92	1350	1200- 2040	28-08-92	1500+20PP	1200- 2040	28-08-92	*
							1380	"	01-05-93	1530	"	01-07-93	
							1410	"	01-05-94	1560	"	01-07-94	
							1480	1400- 2300	28-12-94	1640	1400- 2300	28-12-94	
							1520	"	01-12-95	1680	"	01-12-95	
		* He is eligible for arrears only from 01-12-1994 onwards.											
16.	297/96	D. Midya Sagar, (Ex.HYB Divn.)	ASM/ BTTR	1520	1400-	1-7-92	1350	1200- 2040	13-08-92	1500+20PP	1200- 2040	13-08-92	*
							1380	"	01-05-93	1530	"	01-07-93	
							1410	"	01-05-94	1560	"	01-07-94	
							1480	1400- 2300	09-12-94	1640	1400- 2300	09-12-94	
							1520	2300	01-12-95		2300	01-12-95	
		* He is eligible for arrears only from 01-12-1994 onwards.											

(3)

17 x0

NOTE: Further annual increments may be requested for which they are entitled, if any penalties already imposed and which are to be effected in the above cases may be modified, if necessary and to be implemented.

Sd/-

(S. TAMIL CHOLAI) APO/T
/Sr. Divisional Personnel Officer,
Vijayawada.

- C/- Individuals. Through their supervisory Officials.
- C/- SS/KCC, VRT, TEL, MPU, GNT, CCT, GIP, RAL, ANV, BTT R, BZA.
- C/- Sr. DCM/BZA, SS/G/BZA, Sr. DAO/BZA for information.
- C/- OBs/P/Traffic Bills, I&I Section, SP Cell for information and necessary action.
- C/- OS/Law Section, CLA/BZA, AIO/GM's Law Cell/SC for information.

17.5.2014
and for the purpose

// True copy //

1997(1)(CAT)

Nalinikanta Sahoo & Others v. Union of India & Ors (Cuttack)

191

1994; and *Rakesh Kumar and another v. State of Himachal Pradesh and others*, CWP No. 1634/93 decided on January 10, 1994, while placing reliance on ILR 1987 HP 405, *Thrath Raj v. HPSEB and Others*, (1987) 4 SCC 634, *Bhagawan Dass v. State of Haryana and others*; *Rai Singh & others v. State of H.P. and others*, CWP No. 62 of 1990, decided on June 1, 1993; *Kishori Mohan Lal Bakshi v. Union of India*, AIR 1962 S.C. 1139; *State of Punjab v. Joginder Singh*, AIR 1963 SC 913; *C.S. Menon v. State of Rajasthan*, AIR 1968 SC 81; *D.S. Nakara and others v. Union of India*, AIR 1983 S.C. 130; *P. Sarda and others v. Union of India and others*, AIR 1985 SC 1124; *Daily Rated Casual Labour Employees under P&T Department through Bhartiya Dak Tar Mazdoor Manch v. Union of India and others*, AIR 1987 SC 2342; *U.P. Income Tax Department contingent paid Staff Welfare Associations v. Union of India and others*, AIR 1988 SC 517, allowed the application directing the respondents to pay the wages equivalent to the wages paid to other daily paid incumbents and further directed to pay the arrears.

11. In view of above narration, the application is allowed. The respondent are directed to pay the enhanced wages to the applicants in accordance with the orders dated May 15, 1990 and August 23, 1991, Annexure A-2 and A-9 respectively and any enhancement, if any, made on any subsequent date. The arrears of wages will be worked out and paid to the applicants within a period of two months. The application is allowed in above referred to the terms with no order as to costs.

[46/96]

Application allowed

Central Administrative Tribunal—Cuttack

The Hon'ble Mr. N. Sahu, Member (A)

Nalinikanta Sahoo & Others

—Applicants

Versus

Union of India & Ors.

—Respondents

O.A. No. 742, 743, 744, 745, 746, 792, 793-93 & 195-96

Decided on 12.8.1996

Pay fixation, transfer on own request—Rule 227(a)(2), 1313(a)(iii), Circular No. 50/95—Notional pay—Applicants sought transfer on own request in initial grade 1200-2040—Were drawing pay Rs. 1560 in grade 1400-2300 but on transfer pay was fixed at 1410 in grade 1200-2040 counting notional increments to the extent of their service—Above rules relied upon saying that promotion was only *ad hoc* so pay cannot be protected—Relying upon earlier decisions held no distinction could be made on substantive on *ad hoc* pay.

Case Referred :

1. Jayanta Kumar Choudhury v. Union of India, O.A. No. 76 of 1992.

Advocates :

For the Applicants : *M/s R.K. Patnaik, S.C. Pushpanka, S. Jena, P.K. Nayak, T.K. Sahoo, S. Ray & A.N. Samantaray, Advocates.*For the Respondents : *M/s B. Pal, O.N. Ghose & S.K. Ojha and Mr. R.C. Rath, Advocates.*

IMPORTANT POINT

In Railway pay drawn has to be protected on transfer on one's own request.

JUDGMENT

N. Sahu, Member (A).—Common grounds, common facts and similar reliefs are claimed in all these eight Original Applications and therefore they are consolidated together and disposed of in a common order.

2. Illustrative of these applications are the facts in O.A. No. 742 of 1995. It is enough if the facts in this application are first succinctly summed up. All the three applicants, working as Assistant Station Masters in the scale of Rs. 1200-2040/- in Chakradharpur Division were promoted temporarily to officiate as Assistant Station Masters in the scale of Rs. 1400-2300/- on *ad-hoc* measure by D.P.O., Chakradharpur's Office Order dated 22.12.1984. They were transferred to Khurda Division on their own request by accepting bottom seniority in the initial grade of Rs. 1200-2040/-. They accepted other terms and conditions applicable to inter-divisional transfers. The counter says that such transfers can be made only in the initial recruitment grade in A.S.M. category-(Rs. 1200-2040/-). Their pay was protected at Khurda Division establishment in the reversion grade of Rs. 1200-2040/-. Their common basic pay before their transfer was Rs. 1560/- in the scale of Rs. 1400-2300/- whereas at Khurda they were fixed at Rs. 1410/-. Their representations having elicited no response, they claim in this O.A. pay protection at Rs. 1560/- as per their L.P.C. to begin on joining at Khurda.

2. The Respondents agree in view of Rule 227(a)(2), Rule 1313(a)(iii) and also Establishment Circular No. 50 of 1995 to protect the last pay drawn, but such protection is admissible only to those regularly holding the post and not *ad-hoc* employees. *Ad-hoc* employees on transfer will be accorded "proforma progress of increments notionally as if they continued as A.S.Ms. in the scale of Rs. 1200-2040/-.

The relevant Rules are as under :—

"(iii) when appointment to the new post is made on transfer at his written request under Rule 227(2) (FR 15A) and maximum pay in the time scale of the post is less than the substantive pay in respect of the old post, he will draw that maximum as initial pay."

"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 the Rule 227(a)(2)-RE (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)."

On a similar point, the C.A.T., Ernakulam Bench in OA 333/92, OA 400/92 and OA 436/92 held by its Order dated 26.2.1993 as under :

The pertinent point urged by the learned Counsel for applicant is that reduction of pay cannot be done without application of a legal provision. The legal provision brought to my notice as contained in Rule 1313 of the Indian

Railway Establishment Code, as reiterated in Annexure-A-s, is that a fixation of pay of staff on inter-divisional transfer is only after giving protection of pay which the said Railway employee was enjoying in the original division." and

"I allow the application and direct the respondents to fix the pay of the applicants in terms of Rule 1313 of the Railway Establishment Code taking into consideration the pay which the applicants were drawing in the division from where they were transferred to Trivandrum Division on request."

In O.A. No. 241 of 1994, the C.A.T., Cuttack Bench by its Order dated 10.5.1995 allowed the applicant's claim for pay protection on similar facts.

3. What remains to be examined is the contention of the Respondents that the applicants held the higher post at Chakradharpur Division on *ad-hoc* basis and hence their last pay drawn at that Division could not be protected. What the Respondents had done is they protected the basic pay in the lower grade fixed at a stage which the applicants would have drawn had they not been promoted on *ad-hoc* basis in grade -Rs. 1400-2300/-. This argument is fallacious. There can be no distinction between pay drawn in a higher post in an *ad-hoc* manner or a regular manner. Till he is reverted he is entitled to pay protection in the higher grade although he works *ad hoc*. This is not a case of unilateral reversion by Government. This is a case of voluntarily accepting conditionalities of an inter-divisional transfer.

4. There are only three principles of pay fixation: on direct appointment to a post; on appointment to another post which is not higher; and on promotion/appointment to a higher post. The second principle (Swamy's F.R., S.R. Part-I) is applicable in the present case. As stated in Swamy's Handbook 1996, page 42:

"2. On appointment to another post which is not higher. The pay will be fixed at the stage of the time-scale of the new post which is equal to his pay in the old post held by him on regular basis, if there is such equal stage in pay scale of the new post, and he will draw his next increment on the same date on which he would have drawn increment in the old post. If there is no such equal stage, his pay will be fixed at the stage next above his pay in the old post held by him on regular basis. He will draw his next increment in the new post after a qualifying period of 12 months. Pay on appointment to a non-functional Selection Grade post will also be regulated in this manner."

5. The C.A.T., Calcutta Bench in O.A. No. 76 of 1992 in *Jayanta Kumar Choudhury v. Union of India*, (date of Judgment 15.3.1993) protected the pay of an Electrical Chargeman promoted to Grade 'A' in the electrical branch at Sealdah. At his own request he was offered a post in Kanchanapara Workshop as Electrical Chargeman, Grade 'B' on his assenting to the bottom seniority as on that date. At Sealdah the applicant was getting a substantive pay of Rs. 1700/-, but in the new post at Kanchanapara his substantive pay was fixed at Rs. 1640/-. He was thus denied of the benefit of higher pay drawn by him. The Calcutta Bench upheld the claim of the applicant on the ground that according to the provisions of the Railway Establishment Code, the basic pay of a Railway servant who had been previously in employment of the concerned Railway, on a fresh appointment, cannot be less than his previous pay. If in the scale of pay of the new post there is no such stage, the basic pay is to be fixed at the next below stage and the difference be made up by allowing the person concerned a personal pay which is to be absorbed on getting subsequent increments. Thus it is clear that the applicants cannot be denied pay protection on the ground that they were holding the higher post on *ad-hoc* basis. I would therefore, allow the claim and direct the Respondents to protect the applicants' pay as per the last pay certificate

issued by their respective Divisions in the manner discussed above. The Respondents are also directed to calculate the arrears while fixing the pay in the grade of Rs. 1200-2040/. The basic pay plus personal pay would begin from Rs. 1560/- and not Rs. 1410/- as at present.

The applications are allowed. No costs.

[25/96]

Applications allowed

Central Administrative Tribunal--Allahabad

The Hon'ble Mr. T.L. Verma, Member (J)

The Hon'ble Mr. D.S. Baweja, Member (A)

Indra Bhan Shukla & Ors.

—Applicants

Versus

Union of India & Ors.

—Respondents

O.A. No. 136 of 1991

Decided on 27.5.1996

Pay scales, Parity in scales—Applicants electricians enjoyed better scale of pay than Wiremen, case reviewed by successive expert bodies & Pay Commissions and ultimately Wiremen granted higher scale of pay—Applicants seek parity on historical grounds—CAT refused to intervene in the decision of expert committees.

Cases Referred :

1. P. Savita & Others v. Union of India, Ministry of Defence, 1985 S.C. (L&S) 826
2. Bhagwan Sahai Carpenter v. Union of India & others, A.I.R. 1989 S.C. 1215.
3. S. Thiruvalluvar and others v. Union of India and others, 1995(31) A.T.C. 196.

Advocates :

For the Applicants : Mr. Bashisth Tiwari, Advocate.

For the Respondents : Mr. Anil Sthalekar, Advocate.

IMPORTANT POINT

Tribunal should not interfere in the decision of expert bodies.

JUDGMENT

T.L. Verma, Member (J).—This application has been filed for issuing a direction to the respondents to place the applicant in the scale of pay Rs. 1200-1800 with effect from 1.1.1986 at par with the Wiremen.

2. The applicants were initially appointed as Electrician 'B' in the pay scale of Rs. 125-155/-. On the recommendation of 3rd Pay Commission, scale of pay of Electrician 'B' was revised to Rs. 260-400/-. The scale of pay of Wiremen 'B' as recommended by 2nd Pay Commission was Rs. 75-95 and that of Wiremen 'A' Rs. 85-128/-. The Third Pay Commission, however recommended a common scale of pay of Rs. 210-290/- for both wireman A and B. The expert classification committee, which was constituted on the recommendation of 3rd Pay Commission, analysed the job contents of various categories of the Industrial employees and recommend different scales of pay for different categories and recommended common scale of pay of Rs. 260-400/- for both Electrician 'B' and Wireman. The Expert Classification Committee in its second recommendation however, raised the

*reject
and put back*

26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1229 OF 1997.

* * *

Between:

K. VIJAYA KUMAR

.. APPLICANT

A N D

Sr.Divisional Personnel Officer,
S.C.Railway, Vijayawada & 2 Others.

.. RESPONDENTS

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

I, Mrs. Pramila H. Bhargava, wife of Sri Rajat Bhargava, aged about 32, occupation: Government Service do hereby affirm and state as follows: --

I am the Sr.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 HYDERABAD 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.

Ass.  ATTESTOR Officer

S C

V. J.

D.A.


DEPONENT

Sr. DIV.

S. C. RLY

VIJAYAWADA

contd...2.
OFFICER

1) continued....

The applicant herein had filed OA No.996/97 before the Hon'ble Tribunal relying upon this Hon'ble Tribunal judgment in OA No.1252/94 (O.A. 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) 2 & 3 of IREC Vol.II and also taking due note of directions in the similar O.A.

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 dated 24-2-95, (circulated under Serial Circular No. 39/95), a new sub-para (3) is inserted under para 604 of the IREM (1989) which reads as under: --

ASSISTANT ATTESTOR Officer
Y. J. A. T. A.

DEPONENT,
Sr. DIV. SEC. S. C. RLY
Contd...3)

2) continued...

"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 personal 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).
- 4) The applicant herein contends that the instructions of the Railway Board's letter dated 24-2-95 (SC No.39/95) and the subsequent clarifications issued thereon by the S.C.Rly., under Serial Circular No.95/96 would come into force only from the date of issue of the said letter ie., 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

ATTESTOR

DEPONENT

Contd...4.

4) continued....

submitted that in terms of para 6 of SC 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 letter dated 24-2-95 and the clarifications issued under SC 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.

DEPONENT

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

ATTESTOR

Attest to the contents of the above

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

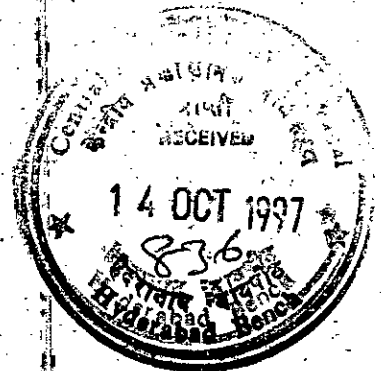
O.A. NO: 1229 OF 1997

REPLY AFFIDAVIT /WRITTEN

STATEMENT ON BEHALF OF

RESPONDENT NO:

FILED ON: 144097



FILED BY:

V. RAJESWARA RAO

ADDL. CGSC

SC FOR RAILWAYS

Ph No: 272585

*Received copy
Mohan
for Mr. Jacob
11/10/97*

*Copy be filed
14.10.97*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 1229/97

Date of Order : 10.11.98

Between :

Vijayakumar

...Applicant

AND

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

... Respondents

Counsel for the Applicant - Shri B.N. Sharma/M.C. Jacob
Counsel for the Respondents - Shri V. Rajeswara Rao

CORAM :

The Hon'ble Justice Shri D.H. Nasir - Vice Chairman
The Hon'ble Shri H. Rajendra Prasad - Member (A)

(Order per Hon'ble Shri H. Rajendra Prasad, Member (A))

Heard Shri B.N. Sharma/Shri M.C. Jacob, Learned
Counsel for the Applicant and Shri V. Rajeswara Rao
Learned Standing Counsel for the Respondents.

The post of Assistant Station Master had two
scales :- Rs. 1400 - 2300 and Rs. 1200 - 2040. The
Applicant, while working as Assistant Station Master in
the higher scale, was transferred at request to another
Division in the same capacity in the lower grade. His

[Signature]

pay was fixed in the latter grade at a lower stage than what he was drawing in his earlier post; certain increments were added to the refixed pay commensurate with the number of years spent by him in his previous post; the eventual difference in the pay drawn by him in the earlier and current posts was made up by the grant of personal pay absorbable in future increments in the new scale. The Applicant's grievance is that he has thus not merely lost his original seniority in the earlier unit (which was in accordance with the rules in this regard), but has also suffered the additional advantage of incorrect lower fixation of pay than what he thinks he is entitled to.

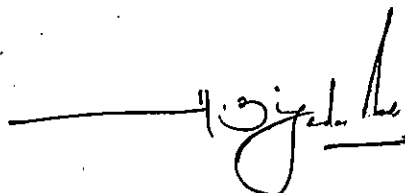
There was a divergence of views as to whether the correct rule applicable in this case is 604 of IREM or Rule 1313(1)(a)(i). It is now clear that it is the former rule viz., 604 of IREM, which is relevant to the facts of the case. The grievance of the Applicant is required to be settled in terms of the additional para (a) (3) incorporated under Rule 604 as communicated by the Railway Board in their letter No. F(E)/II/91/Misc.2 dated 24.2.95. The matter was examined in depth by the Board and their decision is contained in letter No. F(E)II/91/Misc.2 dated 3.11.98. As per this decision the advantage of full pay protection shall be available to officials who were substantive holders of the post and had completed 24 months of regular service in the old scale/earlier appointment. This decision is adequate and fairly covers the interests and claims of the Applicant.

S. V.

(2)

The claims of the Applicant shall, therefore, be examined in the light of the Board's letters dated 24.2.95 and 3.11.98 (supra) and necessary follow-up action shall be taken to fix his pay accordingly. This shall be done within two months from the date of receipt of a copy of this order.

Thus the O.A. is disposed of. No costs.



(H. Rajendra Prasad)

Member (A)



(D.H. Nasir)

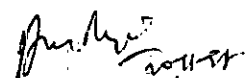
Vice Chairman(J)

1

1

DICTATED IN OPEN COURT

DATED : 10.11.98.


Deputy Registrar

...js

To

1. The Sr.Divisional Personnel Officer,
SC Rly, Vijayawada Division,
Vijayawada, Krishna Dist.
2. The Divisional Railway Manager,
SC Rly, Vijayawada Division,
Vijayawada, Krishna Dist.
3. The General Manager, SC Rly,
Railnilayam, Secunderabad.
4. One copy to Mr. M.C.Jacob. Advocate, CAT.Hyd.
5. One copy to Mr. V. Rajeswar Rao SC for Rlys, CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy.

pvm

17/11/98

I COURT

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE D.H.NASIR:
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

DATED: 10 - 11 - 1998.

~~ORDER/JUDGMENT~~

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

in

O.A.No.

T.A.No.

1229/97

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

~~Dismissed.~~

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

