

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 1147/96.

Dt. of Decision: 18-09-96.

I. John Victor Bob

... Applicant.

Vs

1. The Sr. Divl. Personnel Officer,  
SC Rly, Vijayawada Division,  
Vijayawada, Krishna District.

2. The Divl. Rly, Manager,  
SC Rly, Vijayawada Division,  
Krishna District.

3. The General Manager,  
SC Rly, Rail Nilayam,  
Secunderabad.

... Respondents

Counsel for the Applicant : Mr. M.C. Jacob

Counsel for the Respondents : Mr. V. Bhimanna, SC for Rlys.

CORAM:

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

ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN: MEMBER (ADMN.))

1. Heard Mr. M.C. Jacob, learned counsel for the applicant and Mr. Satyanarayana Murthy for Mr. V. Bhimanna, learned counsel for the respondents.

2. The applicant in this OA joined as a Ticket Collector in the grade of Rs.260-400/- (RS) in Bangalore Division of Southern Railway. He was subsequently promoted to the next grade of Rs.330-560/- on 31-01-1981 in the said division. He sought for Inter-Railway request transfer to Vijayawada Division of SC Railway. By proceedings No. B/P/676/Comml/IDT-IRT dated 4-2-1984 ( Annexure-I at page-8) he was transferred to Vijayawada Division as per

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conditions laid down in the memorandum dated 4-2-84. He joined Vijayawada Division as Ticket Collector on 21-02-84 in the scale of pay of Rs.260-400/- While he was relieved from Bangalore Division he was drawing a pay of Rs. 360/- in the grade of Rs.330-560/-. The applicant submits that his last pay drawn in the Bangalore division of Southern Railway was not protected when he joined Vijayawada Division in the scale of pay of Rs.260-400/- in terms of Rule 1313 (a) (ii) and (iii) of IREC, Vol.II. He submitted a representation dated 5-4-95 ( Annexure - VI at page - 13 ) to R-2 to protect his pay in view of the above provision in the Code. But it is stated that that representation is not yet disposed of.

3. Aggrieved by the above, he has filed this OA to fix the pay in the scale of pay of Rs.260-400/- in SC Railway protection his last pay drawn in Bangalore Division in terms of Rule 1313 (a) (ii) and (iii) of IREC, Vol.II.

4. As his representation is still pending it is not proper to dispose of with any direction without giving an opportunity to the respondents to take into his case and give him a suitable reply in this connection. Hence the OA is disposed of as under:-

R-2 should dispose of the representation of the applicant dated 5-4-95 ( Annexure-VI at page-13) in accordance with rules and also taking due note of the directions given by this Tribunal in OA.No.1252/94 decided on 14-11-94. If the representation of the applicant is favourably considered, he is entitled for arrears if any from one year prior to filing of this OA i.e., from 10-09-95 ( this OA is filed on 10-09-96.)

5. The OA is ordered accordingly at the admission stage itself. No costs.

Sd/-

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R.C. Goda and M.S. Nagur

ANNEXURE - 10

SOUTH CENTRAL RAILWAY

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

No. B/P.524/I/2/OAs.

Dt; 10-12-1996.

Shri I. John Victor Bob,  
BC 1590 TTE-SLP/BZA.

Through CTI/SLP/BZA.

Sub: Refixation of pay.

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In pursuance of the judgement delivered by the Hon'ble CAT/HYB in OA No.1147/96, your representations dated 5-4-95 & 22-10-96 have been carefully considered by the DRM and I am directed to advise you as under:

While you are working as TTE on pay Rs.360/- in grade Rs.330-560 (RS) in MYS Division, sought transfer to BZA division as TC in the initial recruitment grade and you have joined as TC in scale Rs.260-400 (RS) on BZA division on 23-02-84 on bottom seniority. Your pay was, therefore, fixed at Rs.284/- ie. the pay which would have been drawn by you had you continued as TC and further increments were granted accordingly. On your further promotion on 8-4-89 as Sr.TC/TTE in scale Rs.1200-2040 (RSRP) on BZA division, your pay was fixed at Rs.1260/- protecting the last pay drawn. You were drawing Rs.360/- in scale Rs.330-560 (RS) w.e.f. 1-1-84 and the equivalent of Rs.360/- works out to Rs.1260/- in the RSRP scales. You are now drawing Rs.1470/- w.e.f. 1-3-96 in scale Rs.1200-2040 (RSRP).

If your pay is refixed as per the directives of CAT/HYB and also as per the guidelines issued by the CRO under Serial Circular No.95/96, on your joining BZA division you will get your pay fixed at Rs.284+76PP and the personal pay will get absorbed in future increments as indicated in the statement enclosed.

*Up*  
R.C.Gear  
Central Pay Officer

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On your further promotion as TTE on BZA division your pay will be fixed at Rs.1200+60 PP in scale Rs.1200-2040 (RSRP) w.e.f. 8-4-89 and if further increments are granted, you will get your pay fixed at Rs.1410/- in scale Rs.1200-2040 (RSRP) w.e.f. 1-4-96 which is less than the pay you are drawing at present.

In view of the above position, your pay will get reduced and therefore, the pay fixed already needs no revision. A detailed comparative pay fixation chart is enclosed.

( S. TAMILCHOLAI )

( APO/T )

( Sr. Divl. Personnel Officer,  
Vijaywada. )

Copy to : APO/G&C

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PAY PARTICULARS OF SHRI I. JOHN VICTOR BOB, BC 1590 TTE/SLP/BZA.

DOA as TC/BDYT MYS Divn. 15-12-79.

Joined as TC, TDD BZA Divn. on 23-02-84.

Service particulars : DOA : 260-400 15-12-79 as TC in MYS Divn.  
 330-560 31-01-81 as TTE in MYS Divn.  
 260-400 23-02-84 as TC on BZA Divn.

As Drawn/Fixed			Pay particulars is revised		
Date	Scale Rs.	Pay Rs.	Date	Scale Rs.	Pay Rs.
31-01-81	330-560	330	01-12-82	260-400	278
01-01-82	330-560	340	01-12-83	260-400	284
01-01-83	330-560	350	23-02-84	260-400	284 + 76
01-01-84	330-560	360	01-12-84	260-400	290 + 70
Q*			01-12-85	260-400	296 + 64
15-12-79	260-400	260	01-01-86	950-1500	1070 + 190
01-12-80	260-400	266	01-03-87	950-1500	1090 + 170
01-12-81	260-400	272	01-12-87	950-1500	1110 + 150
01-12-82	260-400	278	01-12-88	950-1500	1130 + 130
01-12-83	260-400	284			
01-12-84	260-400	290	08-04-89	1200-2040	1200 + 60
01-12-85	260-400	296	08-04-90	1200-2040	1230 + 30
01-01-86	950-1500	1070	01-04-91	1200-2040	1260 *
01-03-87	950-1500	1090 (3 MNR)	01-04-92	1200-2040	1290
01-12-87	950-1500	1110	01-04-94	1200-2040	1350 (12 MNR)
01-12-88	950-1500	1130	01-04-95	1200-2040	1380
			01-04-96	1200-2040	1410
08-04-89	1200-2040	1260			
01-03-91	1200-2040	1320			
01-03-92	1200-2040	1350			
01-03-93	1200-2040	1380			
01-03-94	1200-2040	1410			
01-03-95	1200-2040	1440			
01-03-96	1200-2040	1470			

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

SOUTH CENTRAL RAILWAY  
MEMORANDUMDivisional Office/BZA  
dated: 13-5-1996

In compliance with the judgements passed by the Central Administrative Tribunal, Hyderabad in OA Nos 1094/95, 1121/95, 1207/95, 1425/95, 1586/95, 1587/95, 297/96, the pay of the following ASMs who had come on interdivisional transfer from GTL Division, HYB Division, UBL Division and MYS Division to BZA division on reversion from grade Rs. 1400-2300(RSRP) to Gr. 1200-2040(RSRP) is refixed in gr. Rs. 1200-2040(RSRP) is revised in gr. Rs. 1200-2040(RSRP) duly protecting the pay drawn by them in gr. Rs. 1400-2300(RSRP) in their parent divisions.

They are eligible for arrears from the dates shown against each as per the judgements 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 judgements delivered by the Hon'ble CAT/HYB in different OAs in regard to pay protection in accordance with Para 1313 (a)(iii) of IREC, Vol. II

SL.No.	OA No	Name of the before applicant	Design CAT/HYB	Stn	Pay which he was drawing on the date of re- lief on his parent division/Railway	Pay Grade Date	Pay already fixed in BZA in gr. 1200- 2040/1400-2300 from the date of joining	Pay Grade Date	Pay now fixed in grade 1200-2040/1400-2300(RSRP)				Date of eligibility for arrears as per judgement.
									Pay	Grade	Date	Pay	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1-4													
5.	1121/95	G.Ratnagopal (Ex Mysore, Divn)	ASM/ KCC	1480 2300	1400- 1.1.91 2300	1320 1200- 15.10.91 2040	1350 " 1 1380 " 1 1410 " 1 1480 " 1 1500 2300	15.10.91 1500 1530 1560 1640 1680	1470 " 1 1500 " 1 1560 1400- 12.07.94 2300	10 " 1 " 1 " 1 1400- 12.07.94 2300	1200- 15.10.91 PP 2040 " 1 " 1 " 1 12.07.94 01.07.95	15.10.91 01.01.92 01.01.93 01.01.94 12.07.94 01.07.95	He is eli- gible for arrears w.e.f 1.11.94 onwards

....2.

1 2 3 4 5 6 7 8 9 10 11 12 13 14

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6. 1121/95 B.Nataraja ASM 1760 1400- 18.90 1680 1200- 13.05.91 1760 1200- 13.05.91  
sagar TEL 2300 2000 2040  
(Ex.MYS Divn) 1720 " 01.02.93 1800 " 01.08.91  
1760 " 01.02.94 1840 " 01.09.92  
1800 1400- 14.06.94 1880 " 01.08.93  
2300 1950 1400- 14.06.94  
2300

(Pay reduced by 3 stages  
from 1850/- to 1720/-  
in scale 1400-2300 for  
2 yrs (NR) w.e.f 2.6.95

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SD | +  
(S.Tamil cholai) APO/T  
(T) Sr.Divisional Personnel Officer,  
Vijayawada.

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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, *Tirath Raj v. HPSEB and Others*, (1987) 4 SCC 634, *Bhagwan 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. Savita 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

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## Central Administrative Tribunal—Cuttack

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

Nalinikanta Sahoo &amp; Others

—Applicants

Versus

Union of India &amp; Ors.

—Respondents

O.A. No. 742, 743, 744, 745, 746, 792, 793/93 &amp; 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. Pushpanaka, S. Jena, P.K. Nayak, T.K. Sahoo, S. Ray & A.N. Samanta Ray, 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., Chakardharpur'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

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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 1926, 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

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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. Bawaja, 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 refuse to interfere 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. Bashiith Tiwari, Advocate.

For the Respondents Mr. Amit Shalekar, 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 Wiremen 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 Wiremen. The Expert Classification Committee in its second recommendation however, raised the

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held by the Supreme Court such a promotee shall have to yield the seniority to the directly recruited official as and when the latter is appointed to the post. The promotee's reversion to the lower post depends upon non-availability of the post in the higher cadre or if the said person was promoted purely on temporary basis or under Rule 32."

We may add here, the above observations shall have to be read with the further condition that such promotees, if found juniors to the direct recruits shall have to be reverted at the appropriate time, as otherwise, allowing a junior person to hold the promotional post would look anomalous and strange, such promotions shall have to be considered as purely *ad hoc* and fortuitous.

8. For the reasons stated above, we direct that the Applicants shall be continued in the posts to which they are already promoted until the direct recruitment takes place or the posts in question are held as totally unnecessary to be filled up by anyone.

9. The Applications are allowed accordingly. The impugned orders in all these Applications are accordingly quashed.

[26/96]

Applications allowed

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Central Administrative Tribunal—Patna

The Hon'ble Mr. D. Purkayastha, Member (J)

P.K. Sinha

—Applicant

versus

—Respondents

Decided on 24.10.1996

(i) Rly. Estt. Code—Rules 1305, 1313, 1331—FR 9(23), FR 22—Pay fixation—Personal pay—New post—While working in higher scale drawing Rs. 1320 p.m. applied for direct recruitment as Ticket Collector grade 950-1500—Selected—Pay fixed at Rs. 1130+190 P.P. to be merged in future increments—Respondents plea that knowing fully well that it was a lower grade post be applied & pay has been correctly fixed protecting his pay in higher scale as per Rule 1305 & 1331—Found it was not a case of P.P. as per rule 1305 nor it was case of joining a post not involving higher duties, it was a case a fresh appointment e.g. 'a new post' under rule FR 22—Hence pay should be fixed accordingly. (Para 9)

(ii) Limitation—Pay fixation—Recurring cause—Cause arose in 1991, filed in 1996, challenged on limitation—Found it being a case of pay fixation it was a recurring cause so limitation not attracted. (Para 10)

## Cases Referred:

1. S.S. Rathore v. State of Madhya Pradesh, AIR 1990 SC 10.
2. Madras Port Trust v. Himanshu, AIR 1979 SC 1144.

## Advocates:

For the Applicant : Mr. R.N. Tiwary, Advocate.

For the Respondents : Mr. Gautam Bose, Advocate.

## IMPORTANT POINTS

1. While fixing pay in a new post, as against post involving higher or lower

274. His pay has to be fixed as per FR 22 and not by granting personal pay.  
2. ... fixation is a recurring cause.

#### JUDGMENT

D. Parkayastha, Member (J).—The applicant in this O.A. challenges the fixation of his pay scale by the respondents, Divisional Personnel Officer (for short, DPO), E. Rly., Maldah, by order of fixation dated 14.03.1991 (Annexure-A/5) of the application on his appointment in the lower time scale of Rs. 950/- 500/- against the post of Ticket Collectors from the higher time scale of pay of Rs. 1200-2040/- against the post of Clerk Gr. I, Rly. Establishment and also prayed that the respondents be directed to fix his pay in the newly absorbed category from 01.04.1990, as per Annexure A/6 of this application, without treating a portion of pay as personal pay which he was drawing in the Clerk Gr. I. He has further prayed that the respondents be directed to pay the applicant increments arising out of re-fixation of his salary from 01.04.1990 as per Annexure-A/6 of this application.

2. The brief facts of the case are that the applicant was appointed as a Clerk Gr. II in the year 1952 in scale Rs. 950-1500/- in the E. Rly., and was posted to work in the Jamnagar Mechanical Workshop. Thereafter, he was promoted to Clerk Gr. I in scale Rs. 1200-2040/- in the year 1984 and continued to work in that capacity till 16.03.1990. While he was serving as such, in pursuant to the notification dated 12.07.1989 (Annexure-A/3) for formation of a panel for filling-up the vacancies of Ticket Collectors in grade of Rs. 950-1500/-, the applicant applied for the said post and ultimately he was found qualified and he was appointed as a Ticket Collector and posted to work at Bhagatpur in scale of Rs. 950-1500/- w.e.f. 16.07.1990 vide Office Order No. 7 & 90. It is stated that the applicant was absorbed in the cadre of Ticket Checking category on administrative ground and his pay has wrongly been fixed *vide* Letter no. ET-2/Panel/TC/MLDT, dated 14.03.1991 treating a part of his salary as his personal pay as per table mentioned below (Annexure-A/5):

Previous			As Ticket Collector		
Pay	Scale	Date	Pay	Scale	Date
1330	1200-2040	1.5.1990	1130+190(PP)	950-1500	1.5.1990

It is also stipulated that personal pay will be absorbed in future increments of pay. It is alleged that due to wrong fixation of pay by treating Rs. 190/- as personal pay by Annexure-A/5, the petitioner's future increments of pay had been effected and his increments for another nine years would remain stopped for no fault of him.

Being aggrieved by the said wrong fixation of his pay, the applicant made a representation to the Chief Personnel Officer (for short, CPO), E. Rly., Calcutta on 03.12.1985, *vide* Annexure-A/6 of this application, but his representation has not yet been disposed of by the authority. Hence, the applicant had approached Tribunal for getting relief by way of re-fixation of his pay by involving the provisions of Rule 1113 (FR 22/3/2) contained in the Rly. Establishment Manual, Vol. II.

The respondent's filed written statement denying the claim of the applicant. It is stated by the respondents that the application is bad due to non-joinder and mis-joinder of necessary parties. And also it is hit by principles of res judicata, estoppel, waiver and acquiescence. It is also averred in para-6 of the written statement that the applicant at that point of time was working in the grade of Rs. 1200-2040/- G.P and his pay was fixed at Rs. 1320/- in it is also stated that the applicant had opted for the post of Ticket Collector in the lower time scale pay voluntarily with a hope that channel of promotion in that cadre of Ticket Collector will be much more open and wide. Hence, applicant is voluntary

switched over to the Ticket Collector for his own interest and, therefore, his fixation of pay was rightly done as per Annexure-A/5 applying the provisions of Rule 1305 (FR 9) (23) and Rule 1331 (FR 37) of the Indian Ry. Establishment Code Vol. II (1987 Edition) (for short IREC). So, fixation of pay as done by the authority as per Annexure-A/5 of the application is correct and thereby the petitioner is not entitled to get any relief as prayed for in this application.

3. Shri R.N. Tiwary, learned Counsel appearing on behalf of the applicant contended that the fixation of pay in the present circumstances ought to have been done as per Rule 1331 (FR 22) of the IREC Vol. II since the applicant has been appointed on selection to a new post and his substantive pay under no circumstances could be reduced lower to basic pay which he was drawing on the date of appointment as substantive pay in the old post i.e. Clerk Grade-I.

4. Shri Gautam Bose, learned Counsel appearing on behalf of the respondents resisted this argument and supports the fixation of pay (Annexure-A/5) contending that the fixation was rightly done following the provisions of Rule 1331 (FR 37) and Rule 1305 [FR 9(23)], since the applicant had opted for recruitment in the lower time scale of pay on the basis of notification (Annexure-A/1) for his own interest. Shri Bose refers to Clause-2 of the notification (Annexure-A/1) and submits that the applicant being a departmental employee had been posted to a lower scale on the basis of selection for his own interest and thereby his fixation of pay would be guided by Rule 1305 [FR 9(23)] and Rule 1331 (FR 37) and his substantive pay was protected by allowing personal pay as per provisions of the said Rule.

5. Next submission of the learned Counsel Shri G. Bose is that the instant application is hopelessly barred by limitation in view of the Section 21 of the A.T. Act because he approached the Hon'ble Tribunal on 02.04.1996 though the letter of fixation was issued on 14.03.1991 (Annexure-A/5). He slept over the matter without raising any objection against that fixation till 03.12.1995. The learned Advocate, Shri G. Bose refers to a decision reported in AIR 1990 SC 10 (S.S. Rathore v. State of Madhya Pradesh) on that point of law.

6. In view of the divergent arguments advanced by the learned Counsels for both the parties it is to be seen whether the respondent No. 3 was right in the matter of fixation of pay of the applicant as per Annexure-A/5 or not? And, in other words, whether fixation of pay of the applicant in the present circumstances should be re-fixed as per Rule 1313 (FR 22)(3)(ii) as contained in IREC Vol. II ? Rule 1313(a)(FR 22)(3)(ii) runs as follows :—

"When appointment to the new post does not involve such assumption, he will draw as initial pay, the stage of the time scale which is equal to his substantive pay in respect of the old post, or if there is no such stage, the stage next below that pay plus personal pay equal to the difference and in either case will continue to draw that pay until such time as he would have received an increment in the time scale of the old post or for the period after which an increment is earned in the time scale of the new post, whichever is less. But if the minimum pay of the time scale of the new post is higher than his substantive pay in respect of the old post, he will draw the minimum as initial pay."

The expression "personal pay" has been defined in Rule 1305 [FR 9(23)] which runs as follows :—

"Personal Pay means additional pay granted to a Ry. servant—

(a) to save him from a loss in substantive pay in respect of a permanent post other than a tenure post due to a revision of pay or to any reduction of such

substantive pay otherwise than as a disciplinary measure, or

b) in exceptional circumstances, on other personal considerations."

Rule 1331 (FR 37) runs as follows :—

"Personal Pay - Except when the authority sanctioning it orders otherwise, personal pay shall be reduced by any amount by which the recipient's pay made by increased, and shall cease as soon as his pay is increased by an amount equal to his personal pay."

7. It is not in dispute that the applicant being a departmental employee applied for the post of Ticket Collector in the lower time scale of pay of Rs. 950-1500/- in view of the notification dated 21.07.1981 while he was enjoying the higher time scale of Rs. 1200-2040/- in the cadre of Clerk Gr. I knowing that he would lose his seniority on his appointment in that cadre of Ticket Collector. So, on a careful reading of the Clause-2 of the Annexure-A/3 it is found clear that the candidates who would have volunteered and have been empanelled were treated as direct recruits against the R.E.B quota and they became junior to all Ticket Checking Staff (Permanent & Temporary). So, it leaves no doubt that such appointment of the applicant was a fresh appointment in the cadre of Ticket Collector in the lower scale of Rs 950-1500/- (RP) as departmental candidate. The contention of the learned Counsel for the applicant is that since he is a departmental candidate his substantive pay under no circumstances be reduced less than the substantive pay which he was drawing on the date of appointment in the cadre of Clerk Grade-I. According to the learned Counsel for the applicant on 17.07.1990, the applicant's basic pay (i.e. substantive pay) has fixed Rs. 1320/- in the time scale of Rs. 1200-2040/- and he did not exceed the maximum time scale of pay Rs. 1500/- in the scale of Rs. 950-1500/- so the question of giving protection of substantive pay does not arise in view of the provisions of Rule 1313 (FR 23) of the IREC. Accordingly, he made a representation to the CPO, E. Rly., Calcutta, vide Annexure-A/6 dated 13.12.1995. The respondent No. 2 neither disposed of his representation nor had he come forward to deny the claim of the applicant in respect of re-fixation demanded by him. The learned Counsel, Shri Gautam Bose submits that Rly. authorities are not supposed to give reply of each and every representation submitted by the employees and the Annexure-A/2 of the application shall be deemed to a reply of the Annexure-A/6 of the application.

8. Now, it is to be seen under what circumstances the "Personal Pay" as defined in Rule 1305 (FR 9-(23)) in the said IREC is required to be granted by the authority in the matter of fixation of pay. The expression of the word "Personal Pay" as made in FR-9 has been embodied in Rule 1305 of the IREC Vol. II. On a careful reading of the expression of the word "Personal Pay" it is found that the "Personal Pay" was treated as Additional pay. That can be granted to the employees in the following contingencies, namely, (a) to save him from a loss in substantive pay in respect of a permanent post other than a tenure post due to a revision of pay or to any reduction of such substantive pay otherwise than as a disciplinary measure, or (b) in exceptional circumstances, on other personal considerations. The FR 22 has been embodied in Rule 1305 of the said Manual which indicates that when an appointment to the new post does not involve the assumption of duties or responsibilities of greater importance than those attaching to such permanent post, he will draw his initial pay in respect of old posts or if there is no such stage, the stage next below that post plus personal pay equal to difference and in either case will continue to draw that pay until such time as he would have received an increment in the time scale of the old post or for the period after which an increment as earned in the time scale of pay of the new post whichever is less. In view of the said provisions the fixation of pay of the applicant by granting personal pay under Rule 1313 and Rule 1305 of the IREC has no manner of

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: ADDITIONAL BENCH

AT HYDERABAD.

O.A. No.1318 of 1997.

\* \* \*

Between:

I. John Victor Bob

... Applicant

AND

Senior Divisional personnel Officer,  
South Central Railway, Vijayawada Division,  
VIJAYAWADA. Krishna District & 2 Others. Respondants

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

I, C.V.Narayana S/o Sri Subbaiah, aged 57 years,  
occupation: Government Service and resident of Vijayawada do  
hereby affirm and state as follows: --

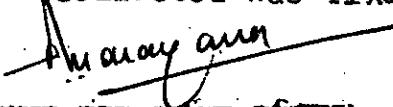
1) That I am working as Senior Divisional Personnel Officer,  
South Central Railway, Vijayawada in the Office of the  
Respondant No.2 herein and dealing with the subject matter of  
the case and as such I am well acquainted with the facts of  
the case. I am filing this reply statement on behalf of  
myself and onbehalf of other respondents as I am authorised  
to do so. The material averments in the O.A. are denied  
save those that are expressly admitted hereunder and the  
applicant is put to strict proof of the same.

2) With regard to various averments of Para 4 and Grounds  
under Para 5 of the O.A., the respondents submits as follows: --

PARA-4 of O.A: (i) The applicant while working as TTE/SBC in  
scale Rs.330-560 (RS) on pay Rs.360/- in Southern Railway  
of Mysore Division sought inter Railway Transfer to South Central  
Railway of Vijayawada Division as Ticket Collector in scale  
Rs.260-400 (RS) on bottom seniority. The request was acceded  
to and the applicant joined as TC/BZA Division on bottom  
seniority in scale Rs.260-400 (RS) on 23-2-1984. The pay of  
the applicant on his joining as Ticket Collector was fixed

  
ATTESTOR  
Assistant Personnel Officer

S.C. RAILWAY  
VIJAYAWADA.

  
भारत सरकार का समकामिक अधिकारी

DERONENT  
S. M. RAILWAY, VIJAYAWADA  
Sr. DIVISIONAL PERSONNEL OFFICER  
S. C. RLY VIJAYAWADA  
Contd...2.

at Rs.280/- w.e.f.23-2-84. At the time of his joining on BZA Division he was only a temporary employee.

The bio-data particulars of the applicant are furnished hereunder: --

Date of Birth : 9-1-56

Date of Appointment : 17-10-79

Initially appointed as TC/BDVT 15-12-79 Rs.260-400 (RS)

Promoted as TTE/SBC 31-1-81 " 330-560 (RS)

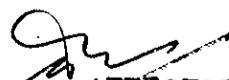
Joined BZA Division as TC/TDD 23-2-84 " 260-400 (RS)

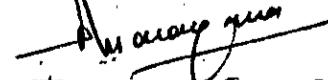
ii) The applicant was further promoted as Sr.TC/TTE in scale Rs.330-560 (RS/Rs.1200-2040 (RSRP) at BZA Division on 8-4-89.

Normally he should have got his pay fixed at Rs.330/- Rs.1200/- in scale Rs.330-560 (RS)/Rs.1200-2040 (RSRP) based on his pay as Ticket Collector. But taking into account, the services rendered by the applicant in the equivalent scale at Mysore Division of Souther Railway, the last pay drawn by him in MYS Division was protected and his pay was fixed at Rs.1260/- w.e.f. 8-4-89 (equivalent to Rs.360/-) and further increments were granted accordingly.

iii) The applicant filed OA No.1147/96 before the CAI/HYB and the Hon'ble Tribunal has disposed of the OA at the admission state itself with the following directions: --

" R 2 should dispose of the representation of the applicant dated 5-4-95 in accordance with the rules and also taking due note of the directions given by this Tribunal in OA 1252/94 decided on 14-11-94. If the representation is favourably considered, he is entitled for arrears, if any, from one year prior to filing of this OA i.e., from 10-9-95 (this OA is filed on 10-9-96).

  
ATTESTOR  
Assistant Personnel Officer  
S. C. RAILWAY  
VIJAYAWADA.

  
S. C. RAILWAY  
VIJAYAWADA  
DEPONENT  
S. C. RAILWAY, VIJAYAWADA  
Sr. DIVISIONAL PERSONNEL OFFICER Contd...3.  
S. C. RLY VIJAYAWADA

The applicant was advised on 10-12-96 that if his pay is refixed he will get his pay reduced and, therefore, the pay fixed already needs no revision. A detailed comparative pay fixation chart was also enclosed along with the reply.

Aggrieved by the above reply, he filed OA No. 1318/97.

iv) For fixation of pay in respect of staff on transfer from Higher grade to Lower grade, the relevant codal and Manual provisions to be relied are Rule 2017 (b)/1313 (3) IREC Vol.II and Para 604 (A) of IREM. The relevant codal provisions reads as under: --

RULE 2017 (A) (iii) / 1313 (A) (iii)

(iii) When appointment to the new post is made on transfer at his own request under Rule 2011 (a) FR 15 A) and the 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.

(b) If the conditions prescribed in Clause (a) are not fulfilled he will draw as initial pay the minimum of the time scale.

Provided, both in cases covered by clause (a) and in cases, other than cases of re-employment after resignation or removal or dismissal from public service covered by clause (b), that if he either --

8) has previously held substantively or officiated in : --

i) the same post, or

ii) a permanent or temporary post on the same time scale, or

iii)  or

2) is appointed substantively to a tenure post on a time scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated; then the pay shall not, except in cases of reversion to parent cadre governed by proviso (I) (iii), be less than the pay other than special pay.

*[Signature]*  
ATTESTOR  
Assistant Personnel Officer  
S. C. RAILWAY  
VIJAYAWADA.

Amravati  
राष्ट्रीय संस्कृत कार्यालय अधिकारी  
DEPOENT  
द. स. रेड्ड, विजयवाडा Contd...4.  
Sr. DIVISIONAL PERSONNEL OFFICER  
S. C. RLY VIJAYAWADA

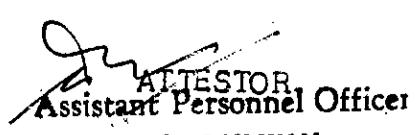
In respect of the applicant, the maximum pay in the time scale of the new post is not less than the pay drawn in respect of the old post. Para 604 (a) of IREM reads as under: --

a) TRANSFER FROM A HIGHER TO A LOWER POST: --

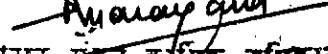
(a) (i) Temporary Employees: - In such cases the benefit of completed years of service in the higher post may be given for purposes of advance increments in the lower post to which Railway servant is appointed, provided, of course that does not exceed the pay drawn in the higher post at the time of transfer. In case, the appointment to the lower posts involves appointment to a regular cadre with immediate or future prospects of absorption as a permanent Railway Servant care should be taken to see that grant of advance increments does not come into conflict with the pay fixed for other railway servants in the cadre. In such cases, normally, it may be preferable to fix the pay at the minimum of the time scale, and to grant, subject to the approval of the Railway Board, a personal pay equal to the appropriate number of increments instead of fixing the pay at a higher stage in the time scale, the personal pay being absorbed in future increments.

By applying the above proviso and as the applicant was a temporary employee at the time of his transfer to BZA Division and has previously held the post of Ticket Collector, his initial pay was fixed not less than the pay he held in the same post. On his subsequent promotion to the post of Sr.TC/TTE again his pay was fixed not less than the pay he held in the said post at Mysore Division of S.Railway. The applicant, therefore, should have no grouse.

(v) The pay of the applicants in O.A.No.1121/95 was fixed in the lower grade on joining on Inter Divisional Transfer on reversion duly protecting the pay on higher grade vide Memorandum No. B/P 524/VI/SM-ASM/Vol.3 dt. 13-5-96. But the pay so fixed was revised vide Memorandum No. B/P 524/VI/SM-ASM/Vol.3 dt. 18-7-96, as the applicants were given un-intended benefit i.e., applying rule No. FR 21(I) (a)(i) twice for one promotion from grade Rs.1200-2040 to Rs.1400-2300 (RSRP).

  
ATTESTOR  
Assistant Personnel Officer

S. C. RAILWAY  
VIJAYAWADA.

  
वाराण्सी कार्यालय अधिकारी  
S. C. RAILWAY  
VIJAYAWADA  
Sr. DIVISIONAL PERSONNEL OFFICER  
S. C. RLY VIJAYAWADA  
Contd...5

The Hon'ble Tribunal was pleased to dispose off the O.A.No.1147/96 filed by the applicant herein on 18-9-96, by which time serial Circular No.95/96 was introduced and his pay is therefore, to be fixed in terms of the above SC No.95/96. If his pay was to be revised in terms of SC No.95/96, it is found that his pay gets reduced and he was advised accordingly on 10-12-96 duly enclosing the comparative pay fixation chart.

GROUND UNDER PARA - 5 OF O.A.: --

PARA 5.1: Rule 2017(A) (ii) - 1313(2) is not applicable to the applicant as he was not appointed to the new post which does not involve assumption duties and responsibilities of greater importance. The relevant codal provision applicable is proviso to 2017 (b)/1313(3) which reads as under: --

(iii) When appointment to the new post is made on transfer at his own request under Rule 2011(a) FR 15(A) and the 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.

(b) If the conditions prescribed in Clause (a) are not fulfilled he will draw as initial pay the minimum of the time scale.

Provided that, both in cases covered by Clause (a) and in cases, other than cases of re-employment after resignation or removal or dismissal from public service covered by Clause (b), that if he either --

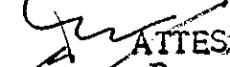
1) has previously held substantively or officiated in ;

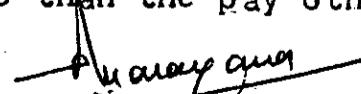
(i) the same post, or

(ii) a permanent or temporary post on the same time scale, or

(iii) . . . . . . . . . or

2) is appointed substantively to a tenure post on a time scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated: then the pay shall not, except in cases of reversion to parent cadre governed by proviso (I) (iii), be less than the pay other than special pay.

  
ATTESTOR  
Assistant Personnel Officer  
S. C. RAILWAY  
VIJAYAWADA.

  
गवर्नर एवं सचिव के द्वारा  
DEPONENT  
कृपया देखें, विजयवाडा contd....6,  
Mr. DIVISIONAL PERSONNEL OFFICER  
S. C. RLY VIJAYAWADA

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Accordingly the pay of the applicant on his transfer to Vijayawada Division as Ticket Collector was fixed at Rs.284/- in scale Rs.260-400 (RSP) w.e.f. 23-2-84.

**GROUND 5.2: -**

The judgement delivered by the Cuttack Bench quoted by the applicant is not applicable in the present case. The judgement was delivered on the new para 604 (a) (iii) inserted to the I.R.E.M. Vol.I under Advance Correction Slip No.19 which was circulated under S.C.Railway Serial Circular No.39/95 which reads as under: --

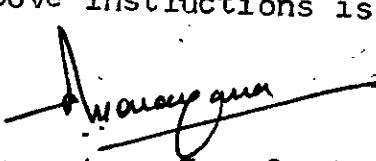
When a Govt. Servant, holding the higher post substantively on regular basis seeks transfer from that higher post to a lower post at his own request and the pay drawn in such hither post is less than or equal to the maximum of the scale of pay of the lower post, then the pay drawn in such higher post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

When a Govt. 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) 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.

This was given effect to from 24-2-95. Further the mode of protection of pay was clarified under S.C.Railway Serial Circular No. 95/96. It has been clearly stated that the instructions will be applicable from 24-2-95 and the past cases decided otherwise than this need not be reopened. As the applicant was transferred to Vijayawada Division on 23-2-84, the above instructions is not applicable to the applicant case.

  
Assistant Personnel Officer  
S.C. RAILWAY  
VIJAYAWADA

  
शारण मंडल कांगड़ा अधिकारी  
DEPONENT  
द. म. रेण्ट, विजयवाडा  
Sr. DIVISIONAL PERSONNEL OFFICE Contd. 7  
S. C. RLY VIJAYAWADA

On the CAT, H19

Q.A. no 1318 of 97

Reply Statement by Respondent



Mr. D. P.

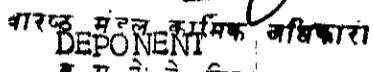
and his son  
19/8/98

2nd by  
V. R. M. I. M. A. S. J. S.  
S. C. for R. P. S. J. S.  
19/8/98

GROUND 5.3:

As stated in supra, the pay of the applicant on his transfer as Ticket Collector in scale Rs.260-400 (RS) was fixed based on the Rules existed on the relevant date and further on his re-promotion to the scale of Rs.330-560 (RS) the pay drawn by him in the S.Railway was protected.

For the above stated reasons, it is submitted that the O.A. is devoid of any merits. It is, therefore, prayed that his Hon'ble Court may be pleased to dismiss the O.A. with costs.



भारत सरकार का समकालीन अधिकारी

DEPONENT

क. र. रेलवे, विजयवाडा

Sr. DIVISIONAL PERSONNEL OFFICER

Sworn and signed on this day S. C. RLY VIJAYAWADA

of 31st JULY, 1998.

BEFORE ME

  
ALTESTOR  
Assistant Personnel Officer  
S. C. RAILWAY  
VIJAYAWADA.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 1318/97

Date of Order : 10.11.98

**Between :**

I. John Victor Bob ...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. Bhimanna

**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. Bhimanna, 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

*✓/S/*

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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.

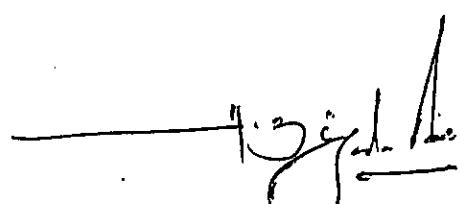
There was a divergence of views as to whether the correct rule applicable in this case is 604 of IREM or Rule 1313(1)(a)(i). It is now clear that it is the former rule, viz., 604 of IREM., which is relevant to the facts of the case. The grievance of the Applicant is required to be settled in terms of 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.

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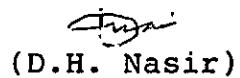
The claims of the Applicant shall, therefore, be examined in the light of the Board's letters dated 24.2.95 and 3.11.98 (supra) and necessary follow-up action shall be taken to fix his pay accordingly. This shall be done within two months from the date of receipt of a copy of this order.

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



(H. Rajendra Prasad)

Member (A)



(D.H. Nasir)

Vice Chairman (J)

DICTATED IN OPEN COURT

DATED : 10.11.98.

...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. Bhimanna, SC for Rlys, CAT.Hyd.
6. One copy to HIRP.M.(A) CAT.Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy.

pvm

1/11/98  
TYPED BY  
CHECKED BY

I COURT  
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. 1318 | 97  
T.A.No. (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.

