

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 194/96

DATE OF ORDER : 16-8-96

Between :-

1. M. Raghupathi
2. J. Siva Sankara Reddy
3. K. Subba Reddy
4. Abdul Rasheed
5. Samba Sadasiva Bhaskara Rao
6. G. Nancheraiah

.... Applicants

And

1. Sr. Divisional Personnel Officer,
SC Railway, Vijayawada Division,
Vijayawada, Krishna District.
2. Divisional Railway Manager,
SC Railway, Vijayawada Division,
Vijayawada, Krishna District.
3. General Manager, SC Railway,
8 Rail Nilayam, Sec'bad.

.... Respondents

Counsel for the Applicants : Shri B. Narasimha Sharma

Counsel for the Respondents : Shri K. Siva Reddy, SC for Rly

CORAM:

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

... 2.

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

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Heard Sri M.C.Jacob for the applicants and Sri K.Siva Reddy for the Respondents.

2. There are six applicants in this O.A. Applicants 1 and 2 came to Vijayawada Division on request transfer from Secunderabad Division while working in the grade of pay of Rs.1400-2300 in Secunderabad Division. The applicants 3 to 6 also came to Vijayawada Division from Guntakal Division when they were working as Asst.Station Masters in the grade of Rs.1400-2300 in Guntakal Division of S.C.Railway. Their date of joining and their pay fixed while they joined in Bezavada Division in the Grade of Rs.1200-2040 is shown in the Annexure-I. Their pay, ^{which} though they were drawing as Asst.Station Masters in the grade of Rs.1400-2300 in their earlier division which they wanted to be protected is also shown in Annexure-I statement. It is further stated that Applicant No.3 joined Vijayawada Division in the grade of Rs.1200-2040 and thereafter he switched over to the cadre of ECRC. Hence his case is also similar to the other applicants in this O.A. as averred by the learned counsel for the applicants. The applicants filed representations from ~~pages~~ pages 9, 10, 11, 12, 13 and 14 to the O.A. respectively to Respondent No.2 for protecting their pay which they were drawing as Asst.Station Master in their earlier Division when they joined Vijayawada Division in the grade of Rs.1200-2040. But those representations are stated to be not replied as far. Under the above circumstances this O.A. filed ^{is} praying for a direction to the Respondents to fix their pay on their joining in Vijayawada.

....3.

Wade Division in the grade of Rs.1200-2040 following Rule-1313 of IREC Vol.II as followed in the case of the applicants in OA 1252/94 on the file of this Bench.

3. 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, a direction to dispose of the representations of the applicants in accordance with the Law will meet the ends of justice.
4. In the result, the following direction is given :-
"Respondent No.2 should dispose of the representations of the applicants enclosed at page Nos.9 to 14 to the OA in accordance with the Law taking due note of Rule-1313 of IREC Vol.II and also taking due note of directions in OA 1252/94 on the file of this Bench."
5. Time for compliance is three months from the date of receipt of a copy of this order. In case the applicants get a favourable decision from the Respondent No.2, they are entitled for the arrears only with effect from 17-7-95 (This OA was filed on 17-7-96).
6. O.A. is ordered accordingly at the admission stage itself. No order as to costs.

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RC Jadhav
Counsel for applicant

STATE
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R. S. Jadhav
JUDGE
Central Administrative Tribunal
HYDERABAD BENCH

Dated: 30-10-1996.

Annex - II

MEMORANDUM

In compliance with the Judgments passed by the Honourable CAT/HVB 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 each is refixed in grade Rs.1200-2040(RSRP) duly protecting the pay drawn by them in grade Rs.1400-2300(RSRP) 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 Judgments pronounced in favour of the applicants by the Hon'ble CAT/HVB.

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

Sl. No.	Name of the employee. Desig.& Station.	Date of promotion to grade Rs.425-640/1400-2300 on Parent Division.	Pay which 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.	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.
1.	2.	3.	4.	5.	6.
1-8					
9)	M. Raghupathi ASM/GNT OA No.994/96	425/- 1480 13-2-86 1-2-88	1290 1200-2040 1320 " 1350 " 1380 " 1480 1400-2300	20-7-88 1-1-89 1-1-90 1-1-91 21-8-91	1290+190PP 1200-2040 1320+160PP " 1350+130PP " 1380+100PP " 1480 1400-2300
			Pay protected.		
			1520 " 1560 " 1600 " 1640 " 1680 "	1-3-92 1-3-93 1-3-94 1-3-95 1-3-96	1520 " " " No change.

By S. Divisional
 /Not Eligible for arrears

Sd
 Sr. Divisional Personnel Officer
 P.O., Vijayawada Di

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SOUTH CENTRAL RAILWAY

MEMORANDUM

In compliance with the Judgements passed by the Hon'ble Central Administrative Tribunal, Hyderabad in O.A.Nos.1094/95, 1121/95, 1207/95, 1424/95, 1586/95, 1587/95, the pay of the following ASMs who had come on Inter Divisional Transfer from GTL Division, MYB Division and MYS Division, to BZA Division on reversion from grade Rs. 1400-2300 (RSRP) to gr.1200-2040 (ASRP) is revised in grade Rs. 1200-2040 (RSRP) duly protecting the pay drawn by them in grade Rs. 1400-2300 (RSRP) in their parent Divisions. IS REFIXED IN GR.Es.1200-2040 (ASRP)

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.

STATEMENT SHOWING THE PAY FIXATION OF ASMs WHO WERE JOINED FROM OTHER UNITS/RAILWAYS AND WHOSE FAVOUR JUDGEMENTS DELIVERED BY THE HONOURABLE CAT/HYB IN DIFFERENT CASES IN REGARD TO PAY PROTECTION IN ACCORDANCE WITH PARA 1313(a) (ii) (iii) OF IREC, Vol.II.

S.No.	CA.No.	Name of the before applicant/ CAT/HYB Employee. S/Shri.	Design. Sun.	Pay which he was drawing on the date of relief on his parent division/ Railway.	Pay already fixed on BZA Divn. in gr. Rs.1200-2040/ Rs.1400-2300 (RSRP) from the date of joining.	Pay now refixed in grade Rs.1200-2040/Rs.1400-2300 (RSRP) on BZA Divn. as per the directives of CAT/HYB.	Pay Rs.	Grade (RSRP)	Date	Date of eligible for Arrears as per the Judgement			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.
1	to	11.											
12.	1587/ 95	D.Nageswara Rao, ASM/ (Ex.HYB Divn.)	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.	
13.	1587/ 95	K.S.S. Vara Prasad Babu. (Ex.HYB.Divn.)	ASM/ ANV	1480	1400- 2300	1-5-93	1350	1200- 2040	20-10-93	1470+10PP	1200- 2040	20-10-93	*
							1380	"	01-06-94	1500	"	01-05-94.	
							1440	1400- 2300	22-12-94	1560	1400- 2300	22-12-94.	
							1480	2300	01-12-95	1600	2300	01-12-95.	

* He is eligible for arrears only from 01-12-1994 awards.

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1	2	3	4	5	6	7	8	9	10	11	12	13	14
14.	1587/95	T.V.V.S.Narayana, (EX.HYB Divn.)	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.	
15.	297/96	M.V.S. Gurunath, (EX.HYB Divn.)	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.	
16.	297/96	D.Vidya Sagar, (EX.HYB.Divn.)	ASM/ BTTR	1520	1400-2300	01-07-92	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	"	01-12-95	1680	"	01-12-95.	

NOTE : Further annual increments may be regulated 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. TAMILCHOLAI) APO/T
/Sr. Divisional Personnel Officer,
Vijaywada.

// True copy //

Handwritten signature and text:
Lp
M.C. Jayan
Comdant P.M. Gopalakrishnan

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SOUTH CENTRAL RAILWAY

Headquarters Office
Personnel Branch
Secunderabad

No.F(R)481/IV

Dt. 20-08-1996.

ALL CONCERNED

PERSONNEL BRANCH SERIAL CIRC L.R.
NO.95/1996

Sub: Fixation of pay of employee on transfer
from one post to another on their own request.

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Reference have been received from Divisions/Units seeking clarifications on fixation of pay of railway employees who are transferred on their own request from one post to another post carrying lower time scale of pay than the previous post. In the light of the instructions contained in AC5 19 to IREM (Railway Board's Circular No. P(B)11/91/Misc/2, Dt.24-02-1995 - S.C. Railway Serial Circular No.99/1995) and ACB.14 to IREC/Vol.II (Railway Board's Circular No.P(B)1/89/PR.1/1, Dt.12-12-1991 - S.C.Railway Serial Circular No.177/1991), the following clarifications are issued for guidance:

1 (a) If concerned employee holding the higher post substantively on regular basis is transferred 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 pay drawn in such higher post should be protected.

(b) In respect of an employee who was transferred at his own request as above prior to 1.1.1989, if he had been confirmed in that particular higher grade he can be treated as holding the post in higher grade substantively. In respect of others i.e., after 1.1.1989, if the employee having been appointed/promoted to the post on regular basis, held the post continuously for a minimum period of two years, he is deemed to have held the post substantively (Ref.S.C.R.Serial Circular No.30/89).

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2. Examples: 1

(a) For example, Mr. ABC, Chargeman-A on pay Rs.1750/- in scale Rs.1600-2660 in the Division 'X' is transferred on his request to the post of Chargeman-B in scale Rs.1400-2300 of Division 'Y'. Each Division constitutes a separate seniority unit in respect of both these categories of posts. Mr. ABC is a substantive holder of the post of Chargeman-A (Rs.1600-2660).

(b) Since the pay of Mr. ABC in the post of Chargeman-A (1600-2660) at the time of transition to the post of Chargeman-B (1400-2300) is Rs.1750/- and less than maximum of time scale of pay of new post in grade Rs. Rs.1400-2300, the pay drawn in higher post in grade Rs.1400-2300, the pay drawn in higher post should be protected. The pay protection will have to take into account the number of years of service rendered in the higher grade in order to identify the stage at which the pay should be fixed in the lower post and the difference, if any between such stage and pay of the higher post should be allowed as personal pay absorbable in future increments as illustrated below:-

- (i) Pay in the post of Chargemen-B (Rs.1400-2300) when promoted to the post of Chargeman-A (Rs.1600-2660) .. Rs.1520/-
- (ii) Pay, Mr. ABC would have drawn had he continued as Chargeman-B on Division 'X' i.e. on the date of his transfer to Division 'Y' .. Rs.1640/-
- (iii) Pay of Mr. ABC in the post of Chargeman-A at the time of joining on transfer to Division 'Y' (i.e. Rs.1400-2300) .. Rs.1750/-
- (iv) Pay to be fixed in the post of Chargeman B (Rs. 1400-2300) on joining the post in Division 'Y' pay as at (b) a& Personnel Pay being (iii - ii) .. Rs.1640/-
+ Rs. 110/- (PP)
- (v) Date of next increment in the post of chargeman-B : On completion of 12 months qualifying service from the date the pay Rs.1640/- has fallen due.
- (vi) When the turn of Mr. ABC comes up for promotion to the post of Chargeman-A (Rs.1500-2660) based on seniority position assigned in Chargeman-B

(Rs.1400-2300) category in Division 'Y' his pay shall

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be fixed on the promoted post/grade under normal rules. Vis. Rule. 1313(1)(a)(1).

3. EXAMPLE - 2

(a) If the concerned employee, holding higher post substantively on regular basis is transferred from that higher post at his own request 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.

(b) For example, Mr. CDE, a Chargeman-B (Rs. 1400-2300) while drawing pay Rs. 1760/- was promoted on regular basis to the post of Chargeman-A on pay Rs. 1850/-. He after holding the post of Chargeman-A, for 3 years requested for transfer to the post of Chargeman-B (Rs. 1400-2300) for reasons personal to him. While he was drawing pay at Rs. 2000/- (Rs. 1600-2660), his request for transfer to lower grade post was agreed to and office order was issued accordingly. The transfer did not involve change of seniority unit.

(c) In the circumstances as presented above, it is to be held that it is a case of an employee seeking reversion of a post from which he was promoted. Thus, it is a case of reversion. Therefore, his pay in the post of Chargeman-B (Rs. 1400-2300) should be fixed at Rs. 1900/- that is the pay what he would have drawn had he not at all been promoted to the post of Chargeman-A (Rs. 1600-2660).

4. EXAMPLE - 3

(a) If the concerned employee, holding the higher grade post substantively on regular basis is transferred from that higher post at his own request and the pay drawn in such higher post is more than maximum of the scale of pay of lower post, his pay in the new post (lower grade post), should be fixed as maximum of the scale of pay of new post (lower grade post) in accordance with rule 1313 (RE 22) (I) (a) IREC. Vol. 1

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(b) For example, Mr. MNC, a Chargeman-A on pay Rs.2420/- in scale Rs.1600-2660 is transferred at his request to the post of Chargeman-B in scale Rs.1400-2300 from Division 'X' to Division 'Y'. Each Division forms a separate seniority unit in respect of both these categories. Mr. MNC is a substantive holder of the post of Chargeman-A (Rs.1600-2660) in Division 'Y'.

(c) In the above case, the pay of Mr. MNC, on joining the post of Chargeman-B (Rs.1400-2300), shall be fixed at Rs. 2300/- i.e. at the maximum of the time scale of Rs. 1400-2300. No personal pay is allowed.

(d) When Mr. MNC is promoted to the post of Chargeman-A (Rs.1600-2660), his pay in the promoted post/grade should be fixed in the promoted post of grade under normal Rules via. Rule 1313(1)(a)(i).

5. In the cases, where an employee directly recruited to a higher grade and confirmed in that grade seeking transfer to a lower grade, the pay in the lower grade should notionally be arrived at as if he had been recruited to that grade and the difference so notionally arrived at and the pay what was actually drawn should be treated as personal pay (subject to a maximum of lower grade) to be absorbed in future increments.

6. These provisions would apply to all cases to be settled on or after the date 24-02-1995. Past cases, if any, decided otherwise than in accordance with the above guidelines need not be re-opened.

7. This issues in consultation with FA & CAO/SC.

Sd/-

(S. VEERA RAJU)

for Chief Personnel Officer.

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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, *Tiroth Ray 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, *U.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 & Others

—Applicants

Versus

Union of India & Ors.

—Respondents

O.A. No. 742, 743, 744, 745, 746, 792, 793 & 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. 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. Sathya Member (A).—Common grounds, common facts and similar reliefs are contained in these eight Original Applications and therefore they are consolidated together and disposed of in a common order.

2. A perusal 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. 1400-2760/- on *ad-hoc* measure by D.P.O., Chakradharpur's Office Order dated 11.12.1984. They were transferred to Khurda Division on their own request by accepting 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. 1400-2760/- 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.

3. 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:—

"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-5, 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, 1970, 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 net 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. Bhawja, Member (A)

Indra Bhan Shukla & Ors.

—Applicants

Versus

Union of India & Ors

—Respondents

C.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 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 Sahu 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. Bhashith 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 1.1.1980 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

*By
regd
Counsel for govt*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 1497/97

Date of Order : 10.11.98

Between : M. Raghupathi

...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

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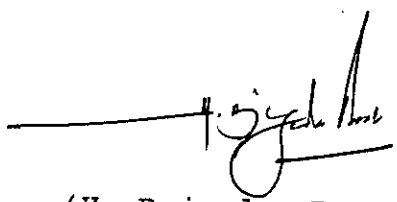
pay was fixed in the latter grade at a lower stage than what he was drawing in his earlier post; certain increments were added to the refixed pay commensurate with the number of years spent by him in his previous post; the eventual difference in the pay drawn by him in the earlier and current posts was 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)

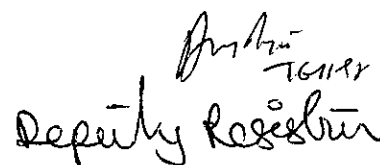


(D.H. Nasir)

Vice Chairman(J)

DICTATED IN OPEN COURT

DATED : 10.11.98.



Deputy Registrar

...js

O.A.1497/98

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. B.N.Sharma, Advocate, CAT.Hyd.
5. One copy to Mr.V.Rajeswar Rao, SCfor 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.

23/11/98

I COURT

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COMPARED BY

CHECKED 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: 13-11-1998.

ORDER/JUDGMENT

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

in

O.A.No.

1497/97

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.

