

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.220 of 1999

DATE OF JUDGMENT: 27th JUNE, 2000

BETWEEN:

P.D.KUMAR

.. APPLICANT

AND

1. Union of India represented by
the Deputy Director,
Establishment (W),
Railway Board, Rail Bhavan,
New Delhi,
2. The General Manager,
South Central Railway,
Secunderabad 500 041,
3. The Chief Personnel Officer,
S.C.Railway,
Secunderabad 500 041.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.G.RAMACHANDRA RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.G.Ramachandra Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant in this OA was initially appointed as Accountant on a consolidated pay on 19.2.1975 in the Loco and Carriage Workshops Statutory Canteen, South Central Railway, Lalaguda. Subsequently, consequent upon the judgement of the Supreme Court dated 22.10.1980, the

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Ministry of Railways had decided that employees of statutory canteens of Railways irrespective of the type and management of the canteen are deemed to be Railway servants provisionally with effect from 8.6.1981. The applicant was in the pay scale of Rs.260-430 as Accountant as per the Railway Board's letter NO.E(W)81/CN1-21, dated 11.3.82. It is also stated that those who were in the pay scale of Rs.300-500 earlier were allowed to draw the scale of pay of Rs.330-480 as a personal one on the basis of the IIIrd Pay Commission scales of pay. The applicant was in the pay scale of Rs.260-430. Hence his pay in the IVth Pay Commission's scales of pay was fixed as Rs.975-1540 with effect from 1.1.1986. The applicant submits that he is doing the same work as Accountant which was being done by one Mr.P.Asankani working as Accountant in the Workshop at Matunga of Central Railway and also one Mr.A.Venu who succeeded Mr.Asankani in that post in Central Railway. Both of them were fixed in the scale of pay of Rs.1200-1800 whereas the applicant is singled out and his pay was fixed in the lower scale of pay of Rs.975-1540.

3. The applicant also submits that as per DoPT's instructions, the pay of Accountant in the canteens covering 2,400 employees or more should be placed in the scale of pay of Rs.1200-1800.

4. With the above contentions, the applicant filed a representation for fixing his pay in the IVth Pay Commission's scale of pay of Rs.1200-1800 instead of Rs.975-1540. That representation was forwarded to the Railway Board vide letter No.P.140/Staff

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Canteen/Policy/Vol.II, dated 24.1.97 (Annexure-XI at page 29 to the OA) for consideration of the matter for refixing the scale of pay of Accountant in the Loco Carriage Workshop Canteen, Lalaguda on par with the pay scale of Accountants in the statutory canteens of Central and Eastern Railways i.e., from the present scale of Rs.975-1540 (RSRP) to Rs.1200-1800 (RSRP). That was rejected by the Railway Board by the impugned letter No.E(W)96/CN-1-/20, dated 22.10.1998 (Annexure-XIII at page 33 to the OA) and that was conveyed to the applicant by the impugned letter NO.P.140/Policy/Staff Canteen/Vol.II, dated 21.1.99 (Annexure-XIV at page 36 to the OA). Earlier also, he was informed so by the impugned letter NO.P.140/Staff Canteen/Policy/II, dated 24.1.97 (Annexure-XII at page 32 to the OA). The applicant was called for selection to the post of Manager Gr.I and II in the scale of pay of Rs.4000-6000 (RSRP) by way of selection in terms of the cadre restructuring ordered by the Railway Board through the letter dated 10.5.98 (Annexure R-1 at page 3 to the additional reply dated 7.6.2000). However, the applicant expressed his willingness by the letter dated 6.4.2000 copy enclosed as Annexure R-II at page 8 to the additional reply affidavit dated 7.6.2000. From the letter dated 6.4.2000 it appears that by then the applicant had filed this OA and hence he declined to appear for any departmental selections till the case is finalised in this Bench of this Tribunal.

5. The applicant has enclosed the promotion order of Mr.Asankani by Matunga Workshop bearing NO.E1/Canteen Staff/MTN, dated 27.5.92 (Annexure-III at page 18 to the OA) whereby it is seen that the said Mr.Asankani was

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temporarily promoted to the post of Accountant in the grade of Rs.1200-1800 on a pay of Rs.1440/- per monnht with effect from 1.5.92 and posted to Matunga Canteen vice Mr.T.P.R.Rajan, Accounttant in the Grade of Rs.1200-1800 who was retired from Railway service. Subsequent to that, another order was issued by the Matunga Workshop bearing NO.E1/Canteen Staff, dated 21.6.96 (Annexure-IV at page 19 to the OA) whereby the said Mr.Asankani was promoted as Manager in the same scale of pay and his place was taken over by one Mr.Venu, Storekeeper who was in the scale of pay of Rs.950-1500 was promoted and posted as Canteen Accountant in the scale of pay of Rs.1200-1800 vice Mr.P.Asankani. The applicant submits that the scales of pay of the Railway staff are coordinated by the Railway Board.

6. No Railway can have its own scale of pay for the same post. Hence the reply should have been filed by the Railway Board explaining the case fully whereas it is not done so with a fear that they have no case to explain.

7. This OA is filed to set-aside the impugned order No.E(W)/96/CN-1/20, dated 22.10.1998 (Annexure-XIII at page 33 to the OA) issued by the Railway Board with a consequential direction to the respondents to fix the pay of the applicant in the post of Accountant in the scale of pay of Rs.1200-1800 with effect from 1.1.96 and in the next higher scale of Rs.3200-4900 and Rs.4000-6000 from due dates with all attendant benefits.

8. In the reply, the respondents contend that there were two posts of Manager Gr.I and Manager Gr.II in the

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workshop canteen at Matunga. The lower post of Manager Gr.II was redesignated as Accountant, ~~and was also~~ the post of Manager Gr.II was ^{also} in the scale of pay of Rs.1200-1800. As the post of Manager Gr.II was only redesignated, the scale of pay was retained as Rs.1200-1800 even though the Accountants are in the scale of pay of Rs.950-1500. That redesignation was done as there were two posts of Managers in the workshop canteen at Matunga and the work load was divided by redesignating them. However, those who were in the scale of pay of Rs.330-480 in the IIIrd Pay Commission's scale of pay, were given the pay scale of Rs.1200-1800 as personal one even though they work as Accountants and later those who were posted as Accountants were given only the pay scale of Rs.975-1540 in the IVth Pay Commission's scale of pay. The said Mr.Asankani and Venu who were working at the Workshop Canteen at Matunga were Managers Gr.II and hence their scale of pay was fixed as Rs.1200-1800 even though that post was redesignated as Accountant. The scale of pay of the Accountant in the South Central Railway Canteens was fixed as Rs.975-1540 as per the Railway Board's letter dated 11.3.82 and the scale of pay fixed by the Department of Personnel and Training is not binding on them.

9. In the reply there are ~~are~~ no tangible proof available to come to the conclusion that the post of Accountant in Matunga Workshop Canteen was Manager Gr.II post which was redesignated as Accountant for the purpose of assigning the work. There was also no proof to come to the conclusion that the said Mr.Asankani and Mr.Venu when promoted from the lower grade were posted as Canteen

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Managers Gr.II which was redesignated as Accountant. Hence we asked the learned counsel for the respondents to substantiate the above, as per the order dated 1.2.2000.

10. Accordingly, an affidavit has been filed by the Senior Personnel Officer of Central Railway, Headquarters office, stating that the promotion orders issued in favour of Mr. Asankani and Mr. Venu were against the post of Manager Gr.II in the scale of pay of Rs.1200-1800 and not against the post of Accountant which is in the lower grade post scale of Rs.950-1500. It is further stated in that affidavit that the orders at Annexures-III and IV to the OA is an inadvertant mistake in stating that the above two officials were promoted as Accountants in the scale of pay of Rs.1200-1800.

11. Once again, the above submission in the affidavit is not supported by any proof. It is a mere assertion by the Senior Personnel Officer of the Central Railway Headquarters office. It was not filed ^{even} by the present workshop authorities of Matunga Workshop. If it is an inadvertant mistake as stated by the respondents, they could have corrected it immediately thereafter within a reasonable time. That was not done. Further, the Office Order redesignating the post of Manager Gr.II as Accountant in the Matunga Workshop Canteen is not also produced before us. If at least such a document is available, the submission that redesignating Mr. Asankani and Mr. Venu as Accountants is a mistake, can be accepted. But no such Office Order redesignating the post of Manager Gr.II as Accountant is also enclosed. The applicant denies the above statement of the respondents stating that at no time the post of Manager Gr.II was redesignated as

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Accountant and Mr. Asakani and Mr. Venu were promoted to that post from the lower grade after 1.1.1986 and they were placed in the scale of Rs.1200-1800 and that itself proves his contention that the scale of pay of Accountant in the statutory canteen in Matunga Workshop is in the scale of pay of Rs.1200-1800.

12. We see a valid point in the contention of the applicant. There is no proof, as stated earlier, to accept the contentions of the respondents and also submissions made by the Senior Personnel Officer of Central Railway Headquarters Office. Hence we are of the opinion that the post of Accountant in the Workshop Canteen at Matunga was in the scale of pay of Rs.1200-1800. Subsequently also, an additional affidavit has been filed on 7.6.2000 to sustain the case by the respondents. That affidavit is not of much use in deciding this issue.

13. The only point for consideration in this OA is whether an employee who is working in the Indian Railways as an Accountant in the statutory canteen can have lesser pay scale compared to an employee in the statutory canteen of other Railways when the workload of that Accountant in both the Railways is one and the same.

14. There is nothing to come to the conclusion that the workload of an Accountant in the statutory canteen of the Central Railway is higher than the workload of an Accountant in the statutory canteen of South Central Railway at Lalaguda. The number of employees served by the Workshop Canteen at Matunga and the Workshop Canteen of





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S.C.Railway at Lalaguda are one and the same. The Railways being a unified organisation, two different scales of pay for the same post having similar workload, cannot be given. If a lower scale of pay is to be given in one of the canteens for the post of Accountant, then the workload in that canteen should be less and on that basis a decision should be taken to fix the lower pay scale. But the impugned reply of the Railway Board as well as the statement made by the Railways do not make us believe that the workload of an Accountant in the statutory canteen of S.C.Railway is less than the work done by an Accountant in the statutory canteen of the Central Railway. When the workload and nature of duties performed by an Accountant in both the Railways are one and the same, the Railway Board cannot fix a different pay scale for an Accountant in the Workshop Canteen at Matunga from that of an Accountant in Lalaguda workshop canteen, as both of them are under the overall control and supervision of the Railway Board which is an unified organisation.

15. In view of the above, we feel that the respondents have not examined the case of the applicant herein in the real perspective in which it should be examined. It should have been proper for the Railway Board viz, R-1 herein, to file a reply. For some unknown reasons, the Railway Board did not do so especially when a comparison has to be made between the two different Railways. In our opinion, the South Central Railway authorities are not placed in an appropriate position to compare the pay scale of the Accountants in the South Central Railway Workshop Canteen at Lalagunda with that of the Accountants in the Workshop

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Canteen at Matunga. Non filing of the reply by the Railway Board, in our opinion, is incorrect and probably it was done as they may fear that they have no case.

16. In view of what is stated above, the impugned order dated 22.10.98 and also the consequential orders issued by the South Central Railway i.e., R-2 and R-3 herein, are liable to be set-aside and accordingly they are set-aside. The applicant is entitled for the pay scale of Rs.1200-1800 with effect from 1.1.96 which should be converted to the equivalent pay scale in the Vth Pay Commission's scale of pay from that date. The arrears arising out of that have to be paid to the applicant within a period of three months from the date of receipt of a copy of this order. Other consequential benefits, if any, arising in view of the above direction, the same should also be extended to the applicant.

17. The OA is ordered accordingly. No order as to costs.


(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

27.6.2000


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 27th JUNE, 2000

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