

**Central Administrative Tribunal
Madras Bench**

OA/310/01252/2018

Dated Tuesday the 25th day of September Two Thousand Eighteen

P R E S E N T
Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr.P.Madhavan, Member(J)

B.Elumalai,
Senior Motorman, Token No.159,
P.F.No.04768061,
O/o the Chief Crew Controller,
Chennai Central, Southern Railway,
Chennai Division. .. Applicant
By Advocate **M/s.J.Senkutttvan**

Vs.

1. Union of India – M/o Railways,
rep by General Manager,
Southern Railway,
Park Town, Chennai 600 003.
2. The Chief Personnel Officer,
Southern Railway,
Park Town, Chennai 600 003.
3. The Senior Divisional Personnel Officer,
Southern Railway, Chennai Division,
NGO, Park Town,
Chennai 600 003. .. Respondents

By Advocate **Mr.P.Srinivasan**

ORAL ORDER

(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

Heard. The applicant has filed this OA seeking the following relief:-

“To direct the respondents to protect the pay of Rs.1,320/- of the applicant which he was drawing before his posting as Electrical Assistant in accordance with Railway Board order vide letter No.P(L)II/91/Misc/2 (Pt) dated 02.12.1996 and consequently regulate the pay of the applicant upon his promotion/posting in the running cadre.”

2. It is submitted by the learned counsel for the applicant that the applicant had sought a similar relief in OA 800/1996 which was dismissed by this Tribunal by an order dated 22.4.1999. A Review Application filed thereagainst was also dismissed by an order dated 01.9.1999.

3. It is submitted that neither in the OA nor in the RA did the applicant refer to Railway Board Circular dated 02.12.1996 which if applied would enable the applicant to be granted the relief. As the issue was not covered earlier, the applicant filed Annexure A15 representation dated 01.12.2017 which was again rejected by Annexure A16 reply dated 26.3.2018 stating that the applicant's junior had been erroneously granted higher pay and as the same had been rectified, the question of stepping up of the applicants' pay did not arise.

4. Learned counsel for the applicant would submit that the applicant had raised the issue involved in this OA in his Annexure A13 representation dated 14.7.2001 which had been rejected by Annexure A14 reply dated 08.3.2002 without taking into

account the aforesaid Railway Board Circular dated 02.12.96. It is clarified that the applicant was not seeking stepping up of pay on par with his junior but protection of his pay following reversion on request which was not allowed to him. The applicant had allegedly been fixed at a lower pay of Rs.1070/- only in the lower pay scale. The applicant was drawing Rs.1320/- at the time of reversion to the lower post which carried a pay scale of Rs.950-1500 and it was possible to protect his pay in absolute terms on the lower scale. Yet the competent authority at that time had fixed his pay at Rs.1070/- only giving rise to the grievance agitated in this OA. It is further submitted that the applicant would be satisfied if he is allowed to make a comprehensive representation and the respondents directed to consider it in accordance with law and pass appropriate orders.

5. Mr.P.Srinivasan takes notice for the respondents.
6. We have considered the applicant's plea. It is not in dispute that the applicant's case for the same relief had been dismissed in OA 800/1996 and the RA also failed. The Railway Board circular dated 02.12.1996 appears to be in regard to persons transferred to a different seniority unit on request and the issue of its applicability in a case of a revised exercise of option for a different hierarchy after availing of the benefit of promotion in the existing channel does not seem to have been raised or answered specifically in the previous OA. It also appears that the applicant was granted a revised option to choose appointment as Electrical Assistant after he had already been upgraded in the category of Electrical Fitter. Although *prima facie* it seems to be a case of *res judicata*, we see no harm if the applicant is permitted to

make a representation to the competent authority within a period of two weeks from the date of receipt of a copy of the order. On receipt of the said representation it is entirely for the competent authority to examine whether the Railway Board circular cited above could have been applied either in letter or spirit to a case of this nature. If it is felt that the protection guaranteed by the aforesaid circular for inter seniority unit transferees on request could be extended to a case of this nature, the respondents may take an appropriate decision in accordance with law and precedents, if any and pass a reasoned and speaking order within a period of three months thereafter. It is clarified that we have not expressed any views on the merits of the applicant's claim.

7. OA is disposed of with the aforesaid observations. No costs.

(P.Madhavan)
Member(J)

25.9.2018

(R.Ramanujam)
Member(A)

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