

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.732 of 2013

Reserved on : 05.10.2018

Order pronounced on : 08.10.2018

Between:

A. Phakeer, S/o. late Kondala Rao,
Aged about 65 years, Occ: Retd. Engineering Carpenter (ECR G-1),
SE/Works/O/WAT, Waltair Division,
East Coast Railway, Visakhapatnam.

... Applicant

And

1. The Union of India, Ministry of Railways,
Represented by the General Manager,
East Coast Railway, Bhubaneshwar.
2. The Senior Divisional Personnel Officer,
East Coast Railway, Waltair Division, Visakhapatnam.
3. The Senior Divisional Engineer (Co-ord),
East Coast Railway, Waltair Division, Visakhapatnam.

... Respondents

Counsel for the Applicant	...	Mrs. S. Anuradha
Counsel for the Respondents	...	Mrs. A.P. Lakshmi, SC for Railways

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
<i>Hon'ble Mr. Swarup Kumar Mishra</i>	...	<i>Member (Judl.)</i>

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The OA is filed for a direction to the respondents to step up the pay of the applicant on par with the juniors.

2. Brief facts of the case are that the applicant joined the respondent organization on 24.03.1966 as Casual Labour and was regularized on 24.05.1969. He was later promoted as Khalasi Helper on 1.08.1978. The applicant represented that when he was promoted as Khalasi Helper on 01.08.1978, he was drawing a pay of Rs.1050 whereas his junior Sri M. Apparao

who was promoted on 01.08.1982 was also drawing a pay of Rs.1050/-. Another colleague Sri M. Ganesh who was promoted as Khalasi on 24.03.1987 was drawing more pay of Rs.1070/-. Similarly, Mr. G. Babu Rao who was promoted on 24.10.1989 as Khalasi was drawing pay of Rs.1050/-. The claim of the applicant is that his pay should be stepped up to Rs.1070/- on par with his junior Sri M. Ganesh. Hence, the OA.

3. The contention of the applicant is that the respondents on repeated representations have replied vide letter dated 16.10.2007 that since the applicant was working as Skilled Artisan Gr. I, he may not be eligible for stepping up pay. The reply being vague, the applicant sought details under Right to Information Act on 20.12.2012 to ascertain the required details to press his case. His demand is that his pay has to be stepped up on par with a junior as per rules on the subject.

4. The respondents take objection on the ground that it is a badly delayed case. Further, as per the DOPT Office Memorandum No.4/7/92-Estt.(Pay-I) dated 04.11.1993 the case for stepping up of pay of seniors in pay scale to that of junior are generally considered on the following grounds:

- a) Both the junior and senior officer should belong to the same cadre and the post in which they have been promoted or appointed should be identical and in the same cadre;
- b) The scales of pay of the lower and higher posts in which the junior and senior officers are entitled to draw pay should be identical.
- c) The anomaly should be directly as a result of the application of FR 22-C.

Based on the above provisions, the respondents claim that the applicant is not eligible.

5. Heard learned counsel and perused the documents on record.

6. Learned counsel for the applicant has stated that under the Right to Information Act, the applicant could get the information about Sri N. Laxmana Rao, whose pay was fixed higher than that of the applicant and as per the rules quoted by the respondents, the applicant is eligible for step up. Learned counsel for the respondents vehemently objected that this is not part of the OA and therefore, the applicant should come up with fresh OA and he should pray for this separately. Learned counsel for the applicant has stated that in para 4.6 of the OA it was mentioned that under the RTI Act, the applicant sought the requisite document on 20.12.2012. Learned counsel for the respondents has opposed on the ground that the name of Sri Laxmana Rao has not been indicated and bringing it afresh at this moment of time is not permissible.

7. The applicant has quoted certain examples intimating that his juniors are drawing more pay than him. The respondents have stated that without giving details a general statement was made and that with great difficulty, the details of Mr. Appara, Mr. M. Ganesh and Mr. Babu Rao could be secured and based on the Memo dated 04.11.1993, the applicant is not eligible. Learned counsel for the applicant has brought in the case of N. Laxmana Rao based on which the applicant's plea needs to be considered. The respondents have also taken up objections for the belated claim. The submission of the case of N. Laxmana Rao gives room for study of the case to evaluate and consider the grievance of the applicant. Learned counsel for the applicant has pleaded that the respondents may examine and decide the case of the applicant taking into consideration the case of N. Laxmana Rao. Albeit learned counsel for the respondents objects, but

based on principle that seniors should not be put to disadvantage by drawing pay less than his junior and to meet the ends of justice, the respondents are directed to consider the OA as a representation and dispose it with a speaking and reasoned order by taking the material papers submitted in respect of Sri N. Laxmana Rao for step up of the pay of the applicant, within a period of three months from the date of receipt of this order.

10. OA is disposed of accordingly. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the day of October, 2018

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