

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00242/2015

Wednesday, this the 27th day of February, 2019

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member**

1. V.P.Vijayakumar, aged 39 years
S/o.Parthasarathy Pillai
Assistant Loco Pilot
Office of the Chief Crew Controller
Southern Railway, Ernakulam Junction
Residing at : "Vijaya Mandiram"
Pallipuram P.O, Cherthala – 688 541
2. K.B.Venugopalan, aged 36 years
S/o.K.V.Bhaskaran, Sr.Assistant Loco Pilot
Office of the Chief Crew Controller, Southern Railway
Ernakulam Junction, Residing at: Kanjirathingal House
Cheranalloor, Ernakulam District, Pin -682 034
3. Saji.K, aged 38 years
S/o.Karunakaran P, Sr.Assistant Loco Pilot
Office of the Chief Crew Controller, Southern Railway
Ernakulam Junction,
residing at: Karuvannur Padeetathil
Kaduvinal P.O, Vallikunnam
Alappuzha District
Pin – 690 501
4. Anoop Sukumaran, aged 38 years
S/o.V.N.Sukumaran,Sr.Assistant Loco Pilot
Office of the Chief Crew Controller
Southern Railway, Ernakulam Junction
Residing at: Anoop Nivas
Vadakkedathu House, Neeleeswaram P.O
Kalady, Ernakulam District, Pin – 683 574
5. Sandu Thomas, aged 40 years
S/o.Thomas K.D, Sr.Assistant Loco Pilot
Office of the Chief Crew Controller
Southern Railway, Ernakulam Junction
Residing at: Mavely House
Edakkunnu, Paduvapuram P.O
Ernakulam District, Pin – 683 576
6. N.V.Gireeshkumar, aged 37 years

S/o.Viswanathan Nair.V
Sr.Assistant Loco Pilot
Office of the Chief Crew Controller, Southern Railway
Ernakulam Junction, residing at:
Nirapath House, Kizhakkekara
Muvattupuzha P.O
Ernakulam Dist. Pin – 686 661

7. T.A.Safeer, aged 40 years
S/o.Ali, Sr.Assistant Loco Pilot
Office of the Chief Crew Controller, Southern Railway
Ernakulam Junction, Residing at:Thandiyeckada House
Eloor North, Udyogamandal P.O
Ernakulam Dt. – 683 501
8. Ajayakumar.N, aged 50 years
S/o.Narayana Panicker.G
Sr.Assistant Loco Pilot
Office of the Chief Crew Controller
Southern Railway, Kollam,
Residing at: Kottasseril House
T.P. Centre, Haripad P.O
Alleppey District
9. Satheesan Pillai, aged 53 years
S/o.Narayana Pillai, Sr.Assistant Loco Pilot
Office of the Chief Crew Controller
Southern Railway
Kollam, Residing at: Kalpakavadi
Vendar P.O, Kollam – 691 507
10. Sadat P.M, aged 43 years
S/o.C.A.Mohammed, Sr.Assistant Loco Pilot
Office of the Chief Crew Controller, Southern Railway
Ernakulam Junction, Residing at: Puthakkada House
Eloor North, Udyogamandal P.O
Ernakulam District, Pin – 683 501 **Applicants**

(By Advocate – Mr.T.C.G Swamy)

V e r s u s

- 1 Union of India, represented by the
General Manager, Southern Railway
Headquarters Office, Park Town P.O
Chennai -600 003
2. The Divisional Personnel Officer
Southern Railway, Trivandrum Division
Thiruvananthapuram – 695 014

3. The Railway Board
Ministry of Railways, Rail Bhavan
New Delhi – 110 001
– represented by its Secretary **Respondents**

(By Advocate – Mr.Asif K.H)

This Original Application having been heard and reserved for orders on 20.2.2019, the Tribunal on 27.2.2019 delivered the following:

O R D E R

Per: Mr.Bharat Bhushan, Administrative Member

Original Application No.242/2015 is filed by Shri.V.P.Vijayakumar and 9 others who are working as Senior Assistant Loco Pilots in Trivandrum Division of Southern Railway. They are aggrieved by alleged erroneous fixation of their pay upon their transfer to the Trivandrum Division of Southern Railway from another Division resulting in recurring monthly losses to the applicants. The applicants have submitted Annexure A-2 series representations to the 2nd respondent seeking redressal of their grievance. But it is alleged that there has been no response to the said representations.

2. Applicants were transferred to the Trivandrum Division while working as Senior Assistant Loco Pilots in Pay Band 1 + Grade Pay Rs.2400/- . It is submitted in the Original Application that their basic pay was not protected when they were transferred to Trivandrum at their request and this is violative of Rule 227 of the Indian Railway Establishment Code Volume I. They were accommodated in the lower post of Assistant Loco Pilots on arrival at Trivandrum Division and subsequently promoted in their turn as

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Senior Assistant Loco Pilots.

3. True copies of the representations submitted during April/May 2014 by some of the applicants are produced as Annexure A-2 series. The primary contention they have taken is that basic pay is defined under Rule 3(8) of the Railway Services (Revised Pay) Rules, 2008 to mean, "Pay in the Pay Band + GP" and the refusal of Trivandrum Division of Southern Railway to grant them the protection is arbitrary and contrary to law. The applicants also produced a copy of the order of this Tribunal in O.A 440/2012 wherein under respondent organisation, which is not the Railways, a similar dispute had arisen and this Tribunal had ordered that pay includes Grade Pay and reduction in the Grade Pay on transfer at one's own request, would be violative of existing rules.

4. Respondents have filed reply statement wherein the contentions made in the Original Application have been disputed. It is averred that the Original Application is hit by limitation as having been filed only in March 2015 which was several years after they joined Trivandrum Division on transfer. It is further stated that they have not exhausted departmental remedies available as they had not made any effective representation against the said fixation seeking protection of their pay on transfer. Annexure A-2 series representations were filed 6 years after acceptance of the fixation of their pay and do not absolve them of their action of acquiescence in the matter. They call to their assistance the DoP&T O.M dated 21.10.2009 (Annexure R-2) wherein it is clearly stated that when a person is

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accommodated in a lower post, he will be granted Grade Pay of the lower post alone.

5. We have heard Mr.T.C.G Swamy, learned counsel for the applicants and Mr.Asif K.H, learned counsel for the respondents. Perused the records.

6. The learned counsel for the applicant stated that the applicants are eligible for the benefit sought in terms of existing rules. He further submitted that applicants will be satisfied if a direction is issued to respondent no.2 to consider and take a judicious decision on the representations at Annexure A-2 series within a fixed time limit. Accordingly, we dispose of the Original Application by directing respondent no.2 to consider representations filed by some of the applicants, copies of which are available at Annexure A-2 series and communicate the decision on the same within 60 days of receipt of a copy of this order.

7. The Original Application stands disposed of. No costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures

Annexure A1 - True copy of Chart showing brief details of the applicants material for adjudication of the issues involved.

Annexure A2 - A true copy of uniformly worded representations submitted by some of the applicants during the month of April/May 2014 to the 2nd respondent.

Annexure R1 - True copy of Railway Board's letter No. F(E) II/2009/FOP/1Misc dated 30.11.2009 (RBE No. 210/2009).

Annexure R2 - True copy of Railway Board's letter No.F(E) / 2009/FOP/1 Misc. dated 27.12.2012 (RBE No.246/2012)

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