

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/20/63/2018

Dated: 22/03/2019

Between

S. Sankaraiah,
S/o. S. Narayana,
Aged 54 years,
Occ: Loco Pilot (Goods) (Retd.)(Group-C),
O/o. The Crew Controller,
South Central Railway,
Gooty, R/o. D.No.9/1372-A,
Near MR Factory,
Gooty R.S., Anantpur Dt.

... Applicant

AND

1. Union of India rep. by
The Chairman,
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad.
4. The Senior Divisional Personnel Officer,
South Central Railway,
Guntakal Division,
Guntakal.

... Respondents

Counsel for the Applicant : Mr. K.R.K.V. Prasad
Counsel for the Respondents : Mr. S.M. Patnaik, SC for Rlys.

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant was working as a Loco Pilot in South Central Railway. He was decategorised after verification of his health condition. However, even before any alternative employment was provided to him, he took voluntary retirement and he is being paid pension. He contends that since he took voluntary retirement while he was in the cadre of Loco Pilot, he is entitled to be paid the higher emoluments by adding 55% of basic pay, as is done in case of employees who attained the age of superannuation. Reliance is placed on an order dated 22.03.2017 passed by this Tribunal in O.As No.1362 & 1417/2015.

2. The respondents filed a detailed counter affidavit opposing the O.A. It is stated that the applicant is not entitled to the benefit of addition of 55% of basic pay and dearness allowance since he did not retire in the usual course, on attaining the age of superannuation. Various other contentions are also urged.

3. We heard Shri K.R.K.V. Prasad, learned counsel appearing for the applicant and Sri S.M. Patnaik, learned Standing Counsel appearing for the respondents.

4. The very question, which arises for consideration in this O.A. was dealt with in detail by this Tribunal in O.As No. 1362 & 1417/2015. It was

held that the applicant therein was entitled to be extended the benefit of addition of 55% of basic pay, after deducting the pay element of fixation benefit already granted. It is brought to our notice that the order in the O.As was upheld by the Hon^{ble} High Court of Judicature at Hyderabad in W.Ps. No.27894 &27895/2017 vide judgement dated 16.10.2017. Learned counsel for the respondents states that SLP (C) No.9825-9826/2018 is filed before the Hon^{ble} Supreme Court against the judgement of the High Court.

5. Having regard to the facts and circumstances of the case, we allow this O.A. in terms of the direction issued in O.As No. 1362 & 1417/2015, namely that the respondents shall compute the pension and pensionary benefits of the applicant, duly taking into account, the 55% of basic pay drawn by him, after deducting the pay element fixation benefit already granted to him and pay the arrears of gratuity from the date on which he was permitted to take voluntary retirement from service. This however, shall be subject to the result in the SLP (C) No.9825-9826/2018 filed against the judgement of the High Court. There shall be no order as to costs.

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

**(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN**

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