

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No. 389/2015

Dated this Thursday the 28th day of February, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Shri Pradeep Shrikrishna Kavale
Age 62 years, Retd. Mail/Express
Guard of Solapur Division,
Solapur. R/o. "Parishram",
5 B, Adarsh Nagar,
Near Rangbhavan, 951,
North Sadar Bazar,
Solapur - 413 003 (MS) ... **Applicant**

(By Advocate Shri D.N. Karande)

VERSUS

1. Union of India,
through the General Manager
Central Railway, 2nd Floor
of General Manager's office,
CST Mumbai - 400 001 (MS)
2. Chief Personnel Officer,
Central Railway,
1st Floor of General Manager's
Office, CST, Mumbai - 400 001 (MS)
3. Divisional Railway Manager,
Central Railway, Divisional Office,
Solapur - 413 001 (MS)
4. Sr. Divisional Personnel Officer,
Central Railway, Divisional Office,
Solapur - 413 001 (MS) ... **Respondents**

(By Advocate Shri V.D. Vadhavkar)

R

ORDER

PER: RAVINDER KAUR, MEMBER (J)

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"(a) That this Hon'ble Tribunal may kindly be pleased to order the production of documents, files with noting which are in possession of the respondents and which compelled the issue of the impugned orders.

(b) This Hon'ble Tribunal may kindly please to declare the applicant eligible for an additional increment as per the Board's letter dated 18.07.2012 (A-6)

(c) This Hon'ble Tribunal may also kindly please to quash the impugned orders (A-1) and declare that the applicant eligible for increment and its arrears.

(d) This Hon'ble Tribunal may kindly direct the respondents to grant increment with retrospective and get his pensionary/retirement benefits fixed accordingly along with retirement/consequential benefits and arrears thereof.

(e) Any other relief, this Hon'ble Tribunal may kindly deem fit to be granted.

(f) Cost of this OA may kindly saddled on the respondents."

2. We have heard the arguments of Shri D.N. Karande, learned counsel for the applicant and Shri V.D. Vadhavkar, learned counsel for the respondents

3. The applicant was appointed as Good Guard in the pay scale of Rs.330-560 in the Operating Department of Central Railway, Solapur Division on 26.08.1974. In the year

1992, he was promoted as Passenger Guard in the pay scale of Rs.4500-7000. He was further promoted to the post of Mail/Express Guard in the pay scale of Rs.5500-9000. It is stated that he was stagnated at the maximum of pay scale at Rs.9000/- w.e.f. 01.10.2003. He was granted stagnation increment of Rs.175/- w.e.f. 01.10.2005 and his basic pay was fixed at Rs.9175/- at the end of two years and next was due on 01.10.2007. On the recommendations of 6th Pay Commission, the respondents made pay fixation taking into account his basic pay as Rs.9175/- on 01.01.2006 in the pre-revised pay scale. It is submitted that in terms of the Fixation Table No.FTR/6 attached as Annexure of Railway Board's letter No.PC-VI/2008/1/RSRS/1 dated 12.09.2008, the respondents fixed his revised Pay Band and Grade Pay as per the following table:-

"Annexure to Railway Board's letter No.PC-VI/2008/1/RSRP/1 dated 12.09.2008

Fixation Table No: FTR/6

Pre-revised scale (S-10)
Rs.5500-175-9000

Revised Pay Band + Grade Pay
PB-2 Rs.9300-34800 + Rs.4200

Pre-revised Basic Pay	Revised Pay		
	Pay in the Pay Band	Grade Pay	Revised Basic Pay
1	2	3	4
5500	11650	4200	15850
5675	12020	4200	16220

5850	12390	4200	16590
6025	12770	4200	16970
6200	13140	4200	17340
6375	13510	4200	17710
6550	13880	4200	18080
6725	14250	4200	18450
6900	14620	4200	18820
7075	14990	4200	19190
7250	15360	4200	19560
7425	15730	4200	19930
7600	16100	4200	20300
7775	16470	4200	20670
7950	16840	4200	21040
8125	17210	4200	21410
8300	17580	4200	21780
8475	17950	4200	22150
8650	18330	4200	22530
8825	18700	4200	22900
9000	19070	4200	23270
9175	19440	4200	23640
9350	19810	4200	24010
9525	20180	4200	24380

3.1. The respondents made his initial fixation of pay in terms of fixation card of 6th Pay Commission issued vide Railway Board letter No.PC-VI/2008/I/RSRP/1 dated 11.09.2008 (Annexure A-3) which is reproduced as under:-

“Fixation Card – VIth Pay Commission
(Authority R.B.No.PC-VI/2008/I/RSRP/1 dt.11.09.2008.

Central Railway Personnel Department Solapur Division

Staff Name: P.S. Kawale Desig: M/E GUARD P F No.05250390
Bill Unit: 61713 Station: SUR Staff Category : Running

Present Scale : 05500-09000.

Old Rate of Pay as on 01.01.2006 Rs.9000/- Stagnation Pay Rs.175/-

D.A. Rs.4212/- , DP Rs:5850 Mileage Rs.2700/-

Stage in Pay Band : 19070/- Last Increment Date : 01/10/2005

Pay Band:PB-2 New Pay Scale Rs.:09300-34800 Grade Pay Rs:4200/-

Pay Particulars As on	Pay in Pay Band	Grade Pay	Revised Basic
01/01/2006	Rs.19070	4200	23270
01/07/2006	Rs.19770	4200	23970
01/07/2007	Rs.20490	4200	24690
01/07/2008	Rs.21240	4200	25440

3.2 It is stated that Railway Board issued RBE No.28/2009 vide letter No.PC-VI/2008/I/RSRP/1 dated 11.02.2009 (Annexure A-4) clarifying that where a Railway Servant had been granted an increment (whether normal increment or stagnation increment) after 01.01.2005, no increment would be allowed on 01.01.2006 at the time of fixation of pay of the revised pay structure. Thereafter, Railway Board issued RBE No.61/2010 vide letter No.PC-VI/2010/RSRP/3 dated 23.04.2010 (Annexure A-5) and to the effect that in all cases where a Railway servant had been granted an increment (whether normal increment or stagnation increment) after 01.01.2005, no increment would be allowed on 01.01.2006 at the time of fixation of pay of

the revised pay structure.

3.3 It is further stated that he has made reference to the Railway Board letter No.PC-VI/2010/1/6/2 dated 18.07.2012 (Annexure A-6) which is reproduced as follows:-

*"Government of India
Ministry of Railways
(Railway Board)*

*S.No.PC-VI/296
No.PC-VI/2010/I/6/2*

*RBE No.83/2012
New Delhi, dated 18.07.2012*

*The GMs/CAOs(R),
All India Railways & Production Units
(As per mailing list)*

*Sub: Railway Services (Revised Pay) Rules, 2008- Clarification
regarding proviso under Rule 10.*

*Ref: Railway Board's Notification GSR 643(E) dated 04.09.2008
and letter No.PC-VI/2008/1/RSRP/1 dated 11.02.2009 and
No.PC-VI/2010/I/RSRP/3 dated 23.04.2010.*

*References have been received from some of the
Railways seeking clarification regarding computation of the
period of one year for which pay was drawn at the maximum of
the pre-revised scale towards admissibility of additional
increment under proviso to Rule 10 of Railway Services
(Revised Pay) Rules, 2008.*

2. *The matter has been examined and it is clarified that
the increment in question will be admissible to all those
employees who were stagnating at the maximum of their pay
scale for more than one year as on 01.01.2006 including those
who were in receipt of stagnation increment(s). It is also
clarified that the one year period is to be reckoned w.e.f. the
date of drawal of pay at the maximum of scale and not from the
date of drawal of stagnation increment.*

*This issue with the concurrence of the Finance Directorate of
the Ministry of Railways.*

*Sd/-
(Hari Krishan),*

*Director, Pay Commission-II
Railway Board.*

No.PC-VI/2010/I/6/2

New Delhi, dated 18.07.2012

Copy (with 40 spares) forwarded to ADA (Railways) New Delhi.

Sd/-

For Financial Commissioner/Railways"

3.4. The applicant made representation dated 29.10.2013 to the Administration prior to his retirement on 30.11.2013. His case was referred to Chief Personnel Officer (Rulling), CST Mumbai for clarification vide letter dated 29.10.2013 (Annexure A-7). Since he did not get any clarification on his representation, he made application dated 12.05.2014 (Annexure A-8) in Pension Adalat. He was informed vide letter dated 06.06.2014 (Annexure A-9) that his case has been referred to Headquarters office vide letter dated 03.09.2013 followed by reminders dated 29.10.2013 and 05.06.2014. However, the applicant did not receive any reply thereafter and he made another application dated 11.05.2015 (Annexure A-10) with Pension Lok Adalat 2015 (I). Vide impugned order No.SUR/P/Optg./Pension Adalat/2015(1)/52 dated 08.06.2015 (Annexure A-1), he was

informed by the office of Divisional Personnel Officer, Solapur that he was not eligible for increment and was also not due for incremental arrears since his pay was correctly passed w.e.f. 01.01.2006 in 6th Pay Commission.

3.5. The impugned order has been assailed on the grounds that (a) the respondents have not considered his case in correct words and spirit of Railway Board's instructions dated 18.07.2012 (Annexure A-6) which clarifies that additional increment in question will be admissible to all those employees who were stagnating at the maximum of their pay scale for more than one year as on 01.01.2006 including those who were in receipt of stagnation increment. It also clarifies that the period of one year is to be reckoned w.e.f. the date of drawal of pay at the maximum of scale and not from the date of drawal of stagnation increment.

(b) That the stagnate increment of Rs.175/- was paid from 01.10.2005 and his basic was fixed at Rs.9175/- while fixing in VIth Pay Commission.

(c) The fixation Table No.FTR/6 attached to

the Annexure of Railway Board's letter No.PC-VI/2008/1/RSRS/1 dated 12.09.2008 indicates that the respondents have made fixation in the revised pay band and Grade Pay.

(d) The respondent had granted the stagnation increment with effect from 01.10.2005 for stagnating at the maximum of scale at Rs.9000/- (in Grade Rs.5500-9000) on 01.10.2003.

(e) The respondent has fixed his pay at revised basic pay Rs.23,640/-, taking into considered pre-revised basic pay as 9175/-, i.e. including his stagnation increment of Rs.175/- to the maximum of pay scale of Rs.9000/-.

(f) The computation of stagnation increment at the time of fixation during VIth Pay Commission is permissible and it does not bar for an additional increment as per the Board's letter dt.18.07.2013 (Annexure A-6).

(g) It is stated that as per the recommendations of 6th Pay Commission, an additional increment and its arrears are due towards the applicant.

4. The respondents in their reply have

admitted all the relevant facts including the relevant documents particularly RBE No.PC-VI/2010/I/RSRP/3 dated 23.04.2010 (Annexure A-5) issuing certain clarifications on the subject "Fixation of pay and grant of increments in the revised pay structure - Clarification reg." and letter of the Railway Board No.PC-VI/2010/1/6/2 dated 18.07.2012 (Annexure A-6) whereby the clarification has been given that the increment in question will be admissible to all those employees who were stagnating at the maximum of their pay scale for more than one year as on 01.01.2006 including those who were in receipt of stagnation increment(s). Vide this document it is further clarified as to how the period of one year is to be reckoned i.e. with effect from the date of drawal of pay at the maximum of scale and not from the date of drawal of stagnation increment.

5. It appears that it is the case of wrong interpretation of the relevant letters/circulars of the Railway Board particularly Annexure A-5 and Annexure A-6 referred above by the respondents. It is

admitted by the respondents vide para 12 of the reply that the applicant had reached the maximum of scale of Rs.9000/- in Gr. Rs.5500-9000 (RSRP) on 01.10.2003 and had drawn 1st stagnation increment on 01.10.2005 and that by taking into consideration of his stagnation increment of Rs.175/-, his pay was fixed at Rs.19440 + 4200 (GP) on 01.01.2006 as per IInd para of RBE No.103/2008 which was further clarified by item No.5 of RBE No.28/2009 and item No.II of RBE No.61/2010 dated 23.04.2010. It is further stated that due to implementation of 6th Pay Commission in term of Railway Board's L.No.PC-VI/2008/I/RSRP/1 dated 12.09.2008 the pay of the applicant has been fixed as Rs.19440/- based on old basic pay Rs.9000/- + 175 stagnation increment. We have carefully gone through the relevant record and the Railway Board's letters/circulars relied upon by both the parties. The relevant portion of Annexure A-5 reads as follows:-

"RBE N.61/2010

Subject: Fixation of pay and grant of increments in the revised pay structure – Clarification reg.

(No.PC-VI/2010/I/RSRP/3, dated 23.04.2010)

Following the notification of the Railway Services (Revised Pay) Rules, 2008, this Ministry has received references from some Railways seeking clarifications regarding fixation of pay in cases of Railway Servants drawing pay at maximum of the scale or drawing stagnation increment(s) in the pre-revised scale. The matter has been examined in consultation with Ministry of Finance, Department of Expenditure. The points of doubt and clarifications thereto are as under:-

S.No	Points of Doubt	Clarification
1	As per the proviso of Rule 10 of Railway Services (Revised Pay) Rules, 2008 in the case of persons who had been drawing maximum of the existing scale for more than a year as on the 1 st day of January, 2006, the next increment in the revised pay structure shall be allowed on the 1 st day of January, 2006. Whether the benefit of one additional increment under proviso to Rule 10 of the RS (RP) Rules, 2008 would be available even to those who had reached the maximum of the scale on 1.1.2005, i.e. drawing maximum of pay exactly for one year as on 1.1.2006?	As already clarified vide Clarification No.5 issued vide Railway Board's letter No.PC-VI/2008/I/RSRP/I dated 11.2.2009 (Bahri's RBO 28/2009, P-25) in all case, where a Railway Servant has been granted an increment (whether normal annual increment or stagnation increment) after January 1, 2005, no increment will be allowed on 1.1.2006 at the time of fixation of pay in the revised pay structure.
2	Whether even those employees who had already been granted one, two or three stagnation increments after reaching the maximum of the scale and thereafter drawing such pay for exactly one year (having drawn last stagnation increment on 1.1.2005) or more than one year as on 1.1.2006 are also to be granted benefit of one additional increment as per proviso to Rule 10 of the RS (RP) Rules 2008?	From the foregoing, it is evident that in cases where Railway Servants have been granted an increment (whether normal annual increment or stagnation increment) after January 1, 2005, no increment will be allowed on 1.1.2006 at the time of fixation of pay in the revised pay structure. In other words, those who were granted their last increment (whether normal annual increment or stagnation increment) on or before 1.1.2005 will be allowed an increment on 1.1.2006 at the time of fixation of their pay in the revised pay structure.

6. The perusal of RBE No.61/2010 (Annexure A-5) shows that it issued clarifications on the points of doubt. It finds mention that clarification No.5 issued vide Railway Board's letter No.PC-VI/2008/I/RSRP/I dated 11.02.2009 clarified that in all cases where Railway Servants have been granted an increment (whether normal annual increment or stagnation increment) after January 1, 2005, no increment will be allowed on 1.1.2006 at the time of fixation of pay in the revised pay structure. In other words, those who were granted their last increment (whether normal annual increment or stagnation increment) on or before 1.1.2005 will be allowed an increment on 1.1.2006 at the time of fixation of their pay in the revised pay structure. Later on vide RBE No.83/2012 bearing No.PC-VI/2010/1/6/2 dated 18.07.2012 further clarification was issued regarding proviso under Rule 10 of Railway Services (Revised pay) Rules, 2008 in reference to Railway Board's Notification GSR 643(E) dated 04.09.2008 and letter No.PC-VI/2008/1/RSRP/1 dated 11.02.2009 and No.PC-VI/2010/I/RSRP/3 dated 23.04.2010. This document has clarified

as to how the period of one year for which pay was drawn by the Railway employees at the maximum of the pre-revised scale towards admissibility of additional increment under proviso to Rule 10 of Railway Services (Revised Pay) Rules, 2008 is to be computed. The said letter has already been reproduced in para 3.3 of this judgment.

7. In the present case, the applicant got the stagnation increment of Rs.175/- w.e.f. 01.10.2005. Thus in view of the RBE No.28/2009 vide letter No.PC-VI/2008/1/RSRP/1 dated 11.02.2009 (Annexure A-4) and Railway Board RBE No.61/2010 vide letter No.PC-VI/2010/RSRP/3 dated 23.04.2010 (Annexure A-5), the applicant was not entitled to any increment on 01.01.2006 at the time of fixation of pay of revised pay structure.

8. However Annexure A-6 further clarifies that under Proviso to Rule 10 of Railway Services (Revised Pay) Rules, 2008 the additional increment will be admissible to all those employees who were stagnating at the maximum of their pay scale for more than one year as on 01.01.2006 including those employees

who were in receipt of stagnation increment. The one year period is to be reckoned w.e.f. the date of drawal of pay at the maximum scale and not from the date of drawal of stagnation increment. In the present case, the applicant had reached maximum scale of Rs.9000/- in Grade pay of Rs.5500-9000 on 01.10.2003. Hence, the period of one year for additional increment is to be reckoned w.e.f. 01.10.2003 and not from the date of drawal of stagnation increment w.e.f. 01.10.2005.

9. In the impugned order dated 08.06.2015 (Annexure A-1) the concerned authority is though relying upon the Railway Board's letter dated 18.07.2012 (Annexure A-6) referred above, however misinterpreted the same and took into consideration the stagnation increment of Rs.175/- granted to the applicant on 01.10.2005 and was of the opinion that the applicant was not eligible for further increment and rejected his representation. Whereas the Railway Board's letter dated 18.07.2012 (Annexure A-6) has categorically clarified that increment will be admissible to all those employees who were stagnating at the maximum of their pay scale

for more than one year as on 01.01.2006 including those who were in receipt of stagnation increment (s) and that the period of one year is to be reckoned w.e.f. the date of drawal of pay at the maximum of scale and not from the date of drawal of stagnation increment. In the present case since the applicant had reached the maximum scale of Rs.9000, hence the period of one year in the case of the applicant is to be computed from 01.10.2003 and not from the date of drawal of stagnation increment i.e. 01.10.2005 as has been done by the concerned authority vide impugned order. Hence, the impugned order is liable to be quashed and set aside. The applicant is entitled for an additional increment in terms of Railway Board's letter dated 18.07.2012 (Annexure A-6) at the time of fixation of his pay in the revised pay structure and all the consequential benefits thereof.

10. In view of the above discussion, the impugned order dated 08.06.2015 is hereby quashed and set aside. The respondents are directed to refix the pay of the applicant in the revised pay structure in terms of 6th Pay

Commission after granting additional increment to the applicant in terms of Railway Board's letter dated 18.07.2012 calculating the period of one year from the date of drawal of pay at the maximum scale of Rs.9000/- as on 01.10.2003 and grant him all the consequential benefits with interest at the rate of 10% per annum. The respondents are further directed to complete this exercise within a period of two months from the date of receipt of certified copy of this order and communicate the applicant within two weeks thereafter.

11. The Original Application is allowed in above terms with no order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

ma.

JD
18/3/17

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