

**Central Administrative Tribunal
Principal Bench**

OA No.787/2012

New Delhi, this the 05th day of December, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Sudarshan Singh S/o Kailash Chand
2. Babu Lal S/o Kandhai
3. Hira Lal S/o Bhagoli
4. Babu Lal S/o Ramu

(All are working as Valveman under Sr. Divisional Engineer Works, Northern Railway, Delhi Division, New Delhi)

... Applicants

(By Advocate: Ms. Priyanka Bharadwaj for Mr. M. K. Bharadwaj)

Versus

1. Union of India
Through
The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
DRM Office, Paharganj,
(DRM Office), New Delhi.
3. The D.S.E./III
Northern Railway,
Delhi Division, New Delhi.
4. A.D.R. M. (Tech.)
Northern Railway, Delhi Division,
DRM Office, New Delhi.

5. The Sr. Section Engineer,
(works), Northern Railway,
New Delhi Railway Station,
Delhi Division, New Delhi.
6. The Assistant Engineer,
Northern Railway, Delhi Division,
New Delhi.

... Respondents

(By Advocate: Mr. A. K. Srivastava, Mr. Shailender Tripathi and Mr. V. S. R. Krishna)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

This OA is part of a long drawn litigation undertaken by certain Khalasis of the Northern Railway, who were assigned the duty of Valvemen. Claiming that they are entitled to be paid the scale of pay attached to the post of Valvemen, they filed OA No. 1158/2000 before this Tribunal. The OA was allowed through an order dated 02.07.2001 directing that the applicants shall be continued as Valvemen and be paid the salary in pay scale of Rs. 950-1500. Writ Petition filed by the Railway was dismissed, almost in limine. The matter was taken to the Hon'ble Supreme Court, by filing SLP No. 6336-6338/2004. The order of the High Court was set aside and the matter was remanded to the High Court for passing fresh orders on merits.

2. On such remand, the High Court disposed of the Writ Petition on 03.12.2007 directing that the Railway shall:-

(a) undertake and complete the exercise of fixing the pay scale for the post of Valveman/Valve operator, if not already done.

(b) pay the applicants, the salary of Valvemen in the pay scale which is applicable to such post.

3. Acting on this, the respondents issued Show Cause Notice dated 16.04.2008 to the applicants stating that the pay scale for the post of Valveman is Rs. 750-940 whereas they have been paid the salary in the pay scale of Rs. 950-1500 with revisions from time to time. They were required to explain as to why the amount paid in excess, be not recovered.

4. The applicants moved the High Court by filing Review Petition No. 69/2008, which was disposed on 06.11.2009. It was held by the High Court that the Railway Board had fixed the pay scale for the post of Valvemen at Rs. 750-940 and not Rs. 950-1500, and in case the applicants herein are not satisfied with that, it shall be open to them to challenge the same. As regards excess amount, it was directed that it shall not be recovered.

5. Even while the Review Petition was pending before the High Court, the respondents passed an order dated 05.11.2008 proposing to recover the amount paid in excess beyond the date stipulated by the High Court, on the basis of pay scale indicated above. The same is challenged in this OA.

6. The applicants contend that the pay scale for the post of Valveman is Rs. 950-1500, and at no point of time, any order was passed fixing any other pay scale.

7. The respondents filed counter affidavit opposing the O.A. It is stated that the Railway Board fixed the pay scale for the post of Valveman at Rs. 740-950 and though opportunity was given to the applicants by the High Court to challenge the same, it was not availed. It is also stated that the amount paid in excess to the applicants is liable to be recovered.

8. We heard Ms. Priyanka Bhardwaj, proxy counsel for Mr. M. K. Bharadwaj, learned counsel for the applicants and Mr. V. S. R. Krishna, Mr. Shailender Tiwari and Mr. A. K. Srivastava, learned counsel for the respondents.

9. On a small issue, the litigation, spread over almost a decade is undertaken. The applicants were appointed to the post of Khalasi. However, they were assigned the

duties of Valvemen. It was nowhere pointed out that any separate pay scale exists for the post of Valvemen. Being under the impression that the post of Valvemen is superior to that of Khalasi carrying higher pay scale and they are entitled to be regularized, in that post, the applicants filed the OA, which was in fact allowed.

10. The High Court, however, refused to interfere with the Tribunal's decision. On the matter being remanded by the Hon'ble Supreme Court, the High Court took the view that the Railway had to fix the pay scale for the post of Valveman. In compliance with this direction, the applicants were informed that the pay scale for the post of Valveman is Rs. 750-940. At that stage, the applicants moved the High Court by way of Review Petition. The High Court was convinced that the pay scale for the post was fixed by Railway Board, the highest authority, and in case the applicants are aggrieved, they can challenge it. Such a challenge was not made.

11. As regards recovery, the High Court granted relief to the extent of staying it till the date of order, i.e., 06.11.2009. What now remains is that the respondents can recover the amount paid to the applicants, in excess of pay

scale of Rs. 750-940 or the corresponding revised pay scale, subsequent to 06.11.2009.

12. Though the applicants moved the High Court once again, no tangible relief was granted to them, in the order passed on 16.11.2011.

13. We, therefore, dispose of the OA upholding the impugned order, but directing the respondents that the recovery shall only be in respect of any amount paid to the applicants in excess of pay scale of Rs. 750-940 and the corresponding revised pay scale subsequent to 06.11.2009. The installment shall not be in excess of one - fourth of the present salary. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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