

**Central Administrative Tribunal  
Madras Bench**

**OA/310/00875/2010**

**Dated 25<sup>th</sup> day of April Two Thousand Nineteen**

**P R E S E N T**

**Hon'ble Mr. P.Madhavan, Member(J)  
&  
Hon'ble Mr.T.Jacob, Member(A)**

A.Alphonze,  
S/o Antony Samy,  
No.85, Tamil Nagar 10<sup>th</sup> Street,  
Medical College Road,  
Thanjavur 613 004.  
By Advocate **M/s.P.Rajendran**

.. Applicant/Applicant

**Vs.**

1. The Union of India rep by the  
General Manager,  
Southern Railway,  
Chennai 600 003.
2. The Divisional Railway Manager,  
Southern Railway,  
Tiruchirapalli Division,  
Trichy.
3. The Divisional Personnel Officer,  
Southern Railway,  
Tiruchirappalli Division,  
Trichy.

.. Respondents/Respondents

By Advocate **Mr.I.Arokkaswamy**

**ORDER**

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an original application filed by the applicant seeking the following relief:-

“To call for the records relating to the impugned order of the second respondent in No.T/P535/III/TTI/5/Vol.II dated 11.1.2010 and quash the same and direct the respondents to fix the pay of the applicant in the scale of pay of Rs.9300-34800/- with effect from 1.1.2006 and consequently revise his pension and pay the arrears amount with interest and render justice.”

2. According to the applicant, he had worked as a senior ticket examiner at Thanjavur in Tiruchirappalli Railway Junction and he retired from service. When he was working as senior ticket examiner, his scale was Rupees 4000 - 6000 and he was promoted as head ticket examiner on ad-hoc basis. When he was working as Head ticket examiner, test was conducted for the selection of head ticket examiner. But he could not succeed in it and he was reverted to the post of senior Ticket Examiner in the month of May 2008. He retired from service on 30.6.2008. In the meanwhile, the Sixth pay commission was implemented from 1-1-2006 . The post of head-ticket examiner and senior ticket examiner was merged with effect from 1-1-2006. But the applicant was not given the benefits of fixation of pay on his retirement on 30th June 2008. The applicant has given a representation to Chief Personal Manager and he had rejected the same by an order dated 11th January 2010. So he filed this original application .

3. Respondents entered appearance and filed a detailed statement and submitted that as per the Sixth Pay Commission report, the post of Head Ticket Examiner and Deputy Chief Examiner was merged. According to the respondents, the applicant is not entitled to get any fixation as claimed by him. They admitted that, the sixth CPC was implemented retrospectively from 1st January 2006. They also admitted that, the applicant had retired from service on 30th June 2008 after the implementation of the Pay Commission report. They also submitted that post of Head Ticket Examiner became a non-selection post after the implementation of the report. There was no mention regarding the mode of promotion to the said post and only on 3<sup>rd</sup> September 2008 the Railway Board had clarified the matter and issued a circular for filling up post. Now the post of head ticket examiner is being filled up from the post of senior ticket examiner by promoting suitable person who had obtained the prescribed benchmark. Since the applicant had already retired, he could not be considered for this post. So according to the respondents, the applicant is not entitled to get promotion and fixation of pay.

4. Then the applicant filed M.A 113/2013 seeking to accept additional grounds and it was allowed by the Tribunal. According to him, his statement regarding the merger of the post of Head Ticket Examiner and Senior Ticket Examiner was a mistake and he corrected the same. Accordingly, he amended the application adopting the statement of the respondents that since the post of head ticket examiner was made a non selection post and he is entitled to get notional promotion and fixation his pay

as he had retired only on 30<sup>th</sup> June 2008.

5. This bench had earlier dismissed this application on 24<sup>th</sup> October 2013 holding that there is no merit in the application. Thereupon, the applicant filed an R.A.57/13 for reviewing the order. The Tribunal dismissed the review application holding that there is no reason for review of the order. The applicant thereupon filed Writ Petition No.4687/14 before the Hon'ble High Court of Madras and the Hon'ble High Court set aside the order of the Tribunal and remitted back the OA for fresh consideration. Accordingly, the OA was again taken up and both sides were heard. The counsel appearing for the applicant argue that the applicant was in service till 30<sup>th</sup> June 2008 and he is entitled to get notional promotion to the post of Head Ticket Examiner and notional fixation of his pension in accordance with the scale of Head Ticket Examiner. But the counsel appearing for the respondent would argue that The applicant was not in service on 3<sup>rd</sup> September 2008 when the Board had clarified the method for promotion to Head Ticket Examiner and hence he is not entitled to get promotion. Further, an employee has to get prescribed benchmark for getting promotion.

6. We have heard both sides and perused the pleadings. It is an admitted fact that the employee was in service till 30<sup>th</sup> June 2008. The VIth CPC was implemented retrospectively from 1<sup>st</sup> January 2006. So, on the date of implementation, the applicant was in service and he is entitled to get the benefits of the report. Since there had taken place a merger of posts and the post of Head Ticket Examiner was made a non selection post, it took time for getting clarification from the Railway Board and

the Board had clarified that promotion can be given from the post of senior ticket examiner to the post of head ticket examiner by selecting people who had obtained prescribed benchmark as per their service record. The respondents in this case has not given any satisfactory reason for not considering the applicant for promotion to the post of Head Ticket Examiner, even though he was in service on the date of implementation of VIth Pay Commission report . It may be true that the clarification from the railway board came only after the retirement of the applicant on 30<sup>th</sup> June 2008. But the applicant is entitled to have his name also considered for promotion at least notionally. But the respondents had not considered his name for promotion and juniors were promoted. The counsel for the respondents would content that the applicant has not obtained the benchmark for promotion. But there is no material available before us to know what was the benchmark obtained by the applicant in this case. In view of the above circumstances we are of the opinion that the respondents ought to have considered the case of the applicant for promotion in the vacancies existing even prior to his retirement. It is an admitted fact that no promotions were made on the basis of clarification given by the Board till 11.6.2009 (Annexure A2). It is also clear that 23 persons were given promotions in the vacancies available as on 31.8.09. Of course the applicant should have the prescribed benchmark for promotion on the date on which vacancy arose. But there is no material available at present to know the benchmark the applicant had as on 1-1-2006.

**7. So we find that applicant is entitled to be considered for promotion to any of the vacancies that arose in between 01.1.06 and 30.6.08 as he was in service on**

**the date of implementation of the Pay Commission report.**

**8. Accordingly the O.A is disposed with a direction to the respondents to consider the name of the applicant on the basis of suitability and bench mark for the vacancies which have occurred from 01.1.2006 to 30.6.2008. If found suitable he may be given notional promotion and consequential re-fixation of pension.**

**9. The OA is disposed off accordingly. No costs.**

(T.Jacob)  
Member(A)

25.04.2019

(P.Madhavan)  
Member(J)

/G/