

**Central Administrative Tribunal
Madras Bench**

OA/310/01592/2017

Dated the 30th day of August Two Thousand Nineteen

P R E S E N T

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

S.Ganesan,
Chief Controller,Southern Railway,
Salem Division. .. Applicant
By Advocate **M/s.R.Pandian**

Vs.

1. Union of India rep by
The General Manager,
Southern Railway,
Park Town,
Chennai-600 003.
2. The Chief Personnel Officer,
Southern Railway,
Park Town,
Chennai-600 003.
3. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat.
4. The Divisional Personnel Officer,
Southern Railway,
Salem Division,
Salem. .. Respondents

By Advocate **Mr.Y.Prakash**

ORDER

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

The applicant has filed this OA seeking the following relief:-

“...to call for all the records relating to the denial of fixation of pay of the applicant on promotion from the post of Station Master in PB-2 (9300-34800) with GP 4200 to the post of Section Controller in PB-2 (9300-34800) with GP 4200 and to quash the impugned order No.P(S)443/II/CHC/Rep dated 11.5.2017 passed by the 2nd respondent; consequently to direct the respondents

to fix the pay of the applicant by granting one increment with effect from the date the applicant took over independent charge in the promoted post of Section Controller (i.e. November 2007) as per Rule 1313 (FR 22) (I) (a) (1) of IREC read with Rule 13 of Railway Services (Revised Pay) Rules, 2008 and

to provide other consequential benefits as per rules; and

to pass such other order/orders as this Tribunal may deem fit and proper and thus render justice.”

2. Learned counsel for the applicant submits that the applicant while working as Station Master in PB-2 with Grade Pay (G) Rs.4200 substantively, he was subjected to a departmental selection for promotion as Section Controller in the same PB and GP and subsequently promoted as Section Controller. But no fixation of pay benefit was extended to him. The respondents failed to fix his pay in terms of Rule 1313 (FR 22) (I) (a) (1) of the Indian Railway Establishment Code, according to which the movement from the post of Station Master to the post of Section Controller is a promotion. It is submitted that similarly placed person filed OA 717/2006 and this Tribunal allowed the OA. The order of this Tribunal was upheld by the Hon'ble High

Court of Madras in WP 30151/2007 dated 25.2.2010 and by the Hon'ble Apex Court in SLP (C) No.12847/2010. Further, on the basis of a direction from the the 2nd respondent to the Divisional Railway Administration to grant fixation of pay to similarly placed persons, the applicant made representation on 27.2.2017 to grant the similar benefit of fixation on selection to the post of Section Controller from 16.10.2006. The 2nd respondent rejected the claim of the applicant by impugned order dated 11.5.2017. Aggrieved, he has filed this OA seeking the above mentioned relief.

3. The respondents have filed their reply contesting the claim of the applicant.

4. When the matter is taken up for hearing, counsel for the applicant would submit that the relief sought in this OA is covered by the order of this Tribunal in OA 717/2006 dated 22.6.2007. Thereafter, this Tribunal, following the orders passed in the above OA disposed off several other similar matters directing the respondents to grant the benefit of fixation of pay on promotion from the post of Station Master to Section Controller and the respondents have complied with the orders of this Tribunal. Therefore, this OA could be disposed of accordingly. Counsel for the applicant files a memo to this effect, which is taken on record. The operative portion of the order in OA 717/2006 reads as follows:-

“8. In the result, we find that the applicant has made out a case for the grant of relief sought for by him. The impugned order dated 19.9.05 rejecting the request of the applicant for higher fixation of pay is set aside and the respondents are directed to issue necessary orders refixing his pay with effect from the date he assumed higher responsibilities i.e. 23.11.2003, within a period

of two months from the date of receipt of a copy of this order. The OA is allowed as above. No order as to costs.”

The Hon'ble Supreme Court while dismissing the SLP has held as follows:-

“In our view, the Tribunal had rightly interpreted Rule 1313 of the Railway Establishment Code and directed that the pay of the respondent, who had been promoted from the post of Station Master Grade-II to the post of Section Controller be re-fixed from the date he assumed higher responsibilities i.e. 23.11.2003 and the High Court did not commit any error by refusing to interfere with the order of the Tribunal.”

5. We have carefully considered the facts of the case in terms of the settled law. Since the applicant is squarely covered by the ratio of the aforesaid orders, we deem it appropriate to direct the respondents to issue necessary orders refixing the pay of the applicant with effect from the date he assumed higher responsibility i.e. from the date of promotion within a period of two months from the date of receipt of a copy of this order. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

30.08.2019

/G/