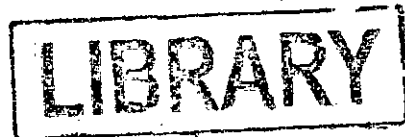


5.9
-i-
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA
BENCH, KOLKATA

O.A. No. - 350/807/2018

PARTICULARS OF THE APPLICANT



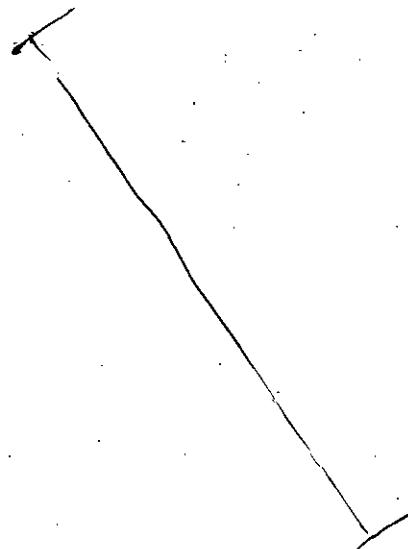
B. Manmadha Rao, S/o late B.Venkanna, aged 61 years, working retired Senior Goods Guard, Kharagpur Division, S.E.Railway, Kharagpur residing at C/o Sarada Das, Near Madrassa School, Ward No. 19, Subhashpally, Post-Kharagpur, Dist- Paschim Medinipur, Pin- 721301, West Bengal.

..... Applicant.

VERSES

- 1) The Union of India, through the General Manager, South Eastern Railway Garden Reach, Kolkata- 43.
- 2) Chief Personnel Officer, South Eastern Railway Garden Reach, Kolkata- 43.
- 3) Senior Divisional Personnel Officer, S.E.Railway, Kharagpur Division, P.O- Kharagpur, Dist- West Midnapur, Pin- 721301.
- 4) Secretary, Railway Board, Raisina Road, New Delhi.

..... Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCHO.A./350/807/2018
MA 571/2018Heard on 29.08.2019
Date of Order: 29.8.19Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

B.Manmadha Rao.....Applicant

Vrs.

Union of India & Ors.Respondents.

For the Applicant(s): Mr. M.S.S.Rao, Counsel

For the Respondent(s): Ms. D.Ghosh Dastidar, Counsel

ORDERBidisha Banerjee, Member (J):

In this O.A., the applicant has sought for the following reliefs:

"i) An order to quash and set aside the order passed by the Respondent No.3 vide letter No.565/CC/OA-86/2018/CAL/BMR dt.24/05/2018;

ii) An order directing the Respondent No.3 to fix the initial pay fixation of the post of Senior Commercial Clerk in the minimum of Rs.4500 in Scale Rs.4500-7000 when the grade pay has been upgraded from 2400/- to Rs.2800/- as on 1/1/2006 corresponding to Rs.11170/- in the Pay Band;

iii) An order directing the respondent No.3 to fix pay on promotion to the posts of Goods Guard(a Running Category) in terms of Rule 13 of RS(Pay) Rules 2008 and in terms of Rule 1313 of Fundamental Rules and Estt. Serial No.95/2013 and subsequent promotions thereon as per rules in force;

iv) To re-fix the pension, gratuity, commuted value of pension, leave salary and other retiral benefits on the basis of revised pay fixation in terms of 7th Pay Commission;

v) Any other relief which the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case may be given in favour of the applicant."

2. We heard Ld. Counsels for the parties and perused the materials on record.
3. At hearing, it transpired that the applicant has claimed his placement in the scale of Rs. 4500-7000/- on the basis of speaking order dated 24.05.2018 pursuant to the directions of this Tribunal in O.A. No. 86/2018. The relevant extract of the said speaking order would run thus:

"3. That as per recommendation of 6th PC, the post of Sr. CC in scale of Rs. 4000-6000/- corresponding Pay Band Rs. 5200-20200/- (PB-1) with Grade Pay Rs. 2400/- has been upgraded in Grade Pay Rs. 2800/- Scale (Rs. 4500-7000/-) as SER Estt Srl No. 132/2008 with corresponding Pay Band Rs. 5200-20200/- (PB-1)."

Placing the above, Ld. Counsel would argue that since the Grade Pay of Rs. 2800/- was the corresponding Grade Pay to the scale of Rs. 4500-7000/- in Pay Band-I, the applicant has rightly claimed placement against the scale of Rs. 4500-7000/- prior to fitment in the Pay Band-I Rs. 5200-20,200/- with Grade Pay Rs. 2800/-. However, none of the documents support his claim that he was ever accorded the scale of Rs. 4500-7000/- or demonstrate that he ever enjoyed the scale of Rs. 4500-7000/- prior to his placement in PB-I with Grade Pay Rs. 2800/-.

The recommendation of the Pay Commission demonstrates that the scale of Rs. 4000-6000/- that was in S-7 w.e.f. 01.01.1996, and the scale of Rs. 4500-7000/- in S-8, were placed in PB-I Rs. 5200-20200/- but with different Grade Pays of Rs. 2400/- and Rs. 2800/- respectively.

4. It appears from Annexure-A/5 to the O.A. that fitment of applicant in PB-I, Rs. 5200-20,200/-, GP 2400/-, was made while he was holding the scale of pay of Rs. 4000-6000/-.

5. Respondents have categorically stated, negating applicant's claim. They have emphasised that on his promotion as Sr. Commercial Clerk w.e.f. 25.12.2005 in the scale of Rs. 4000-6000/-, he was placed in the scale of Rs. 4000-6000/- and his pay as on 01.01.2006 was Rs. 4000/- (5th CPC). As per 6th Pay Commission, the scale of Rs. 4000-6000/- was revised to Rs. 5200-20200/- with Grade Pay Rs. 2400/- in terms of Estt. Sl. No. 132/2008. The Grade Pay of Sr. Commercial Clerk in the scale of Rs. 4000-6000/- was revised to Rs. 2800/- and the pay of the applicant was fixed in the following manner:

$$\text{"Rs. 4000/-} \times 1.86 = \text{Rs. 7440/-} + \text{GP Rs. 2800/-} = \text{Rs. 10240/-"}\text{"}$$

The applicant was further promoted to Goods Guard w.e.f. 24.09.2009 in the same Pay Band and Grade Pay. As per Estt. Sl. No. 125/2008, fixation of pay on promotion was to be done only when such promotion was to a higher grade after 01.01.2006. Since the post of Goods Guard carried the same Pay Band and Grade Pay as that of Sr. Commercial Clerk, there was no question of further fixation of pay and, therefore, he was not entitled to any further fixation of pay as per Rule 1313 of IREC Vol.II, 1987 edition and, as clarified in RBE 33/2016.

Respondents have further stated that the applicant's effective date of promotion to the post of Sr. Goods Guard was 01.11.2013, which was available due to restructuring of the cadre. The corresponding Pay Band and Grade Pay of Sr. Goods Guard was Rs. 9300-34,800/- and Rs. 4200/- respectively and the applicant's pay was fixed at Rs. 14790/- granting 3% benefits and difference of Grade Pay. He retired from service w.e.f. 31.01.2016 when his last pay was Rs. 47,600/-, according to which, the settlement payments have been revised and, therefore, the applicant should not feel further aggrieved.

6. In view of the aforesaid position and since the claim of the applicant to fix his pay at PB-I with Grade Pay Rs. 2800/- on the basis of minimum of scale of Rs. 4500-7000/- is not supported by any authority (rules, circulars or instructions) and having noted that the Sr. Commercial Clerk was operated in pay scale of Rs. 4000-6000/- prior to 6th CPC and that only because he was accorded a higher grade pay of Rs. 2800/- he should be deemed to have served his 5th CPC scale of Rs. 4500-9000/- lacks merit, and therefore, the claim of the applicant fails. Accordingly, the O.A. is dismissed with no order as to costs. M.A. 571/2018 also stands disposed of.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

RK