

**Central Administrative Tribunal
Madras Bench**

OA/310/01852/2014

Dated the 17th day of December Two Thousand Nineteen

P R E S E N T

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

K.Pannerselvam,
Khalasi/Gangman,
3B/275, Om Sakthi Nagar,
(EB Colony),
Chennai Main Road,
Villupuram District 605 602. .. Applicant
By Advocate M/s.S.Vijay Anand

Vs.

1. Union of India, rep by
The General Manager,
Southern Railway,
Park Town, Chennai-3.
2. The Divisional Personnel Officer,
Southern Railway,
Trichirappalli Division,
Trichy 620 001. .. Respondents

By Advocate Mr.A.Abdul Ajees

ORDER

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

1. The applicant's case is as follows:-

The applicant began as Project Casual Labourer under the Executive Engineer/CN, Podanur and thereafter he was granted temporary status w.e.f. 01.1.1986. According to him, 38 others were given temporary status alongwith him as per order dt. 17.1.1986. The applicant was initially given the scale of Rs.196-232. In the year 1987 he was absorbed as Gang-man as per order dt. 03.5.87. Thereafter, he applied for a transfer to Tiruchirappalli Division in the year 1990. He was given a transfer and he joined the Tiruchirappalli Division as Gang-man with scale of pay of Rs.775-1025. After working there his scale has reached to Rs.3257/. When he examined his pay scale with his junior Chinna Raman, he found that his junior was getting Rs.3300/- which is more than his pay. Accordingly, he gave a representation to Assistant Divisional Engineer, Villupuram for stepping up his pay. But the respondents did not give any reply. According to him, as per clause 23 of Master Circular No.56 stepping up the pay of senior appointed to selection grade earlier on par with his junior appointed to selection grade later is as follows:-

“23. Stepping up the pay of senior appointed to selection grade earlier at par with junior appointed to selection grade later

Cases may arise when a senior person appointed earlier to the selection grade may get less pay than the junior appointed to selection grade later after earning one more increment in the ordinary grade. In such cases, the pay of the senior person may be stepped up to make it equal to the pay of the junior person

subject to fulfilment of the following conditions. Both the senior and junior employees should belong to the same cadre and the selection grade to which they have been appointed should be identical and in the same cadre.

- i. The senior employee has drawn pay more or equal to pay of his junior in the ordinary grade from time to time before appointment to the selection grade.
- ii. The anomaly should have been directly as a result of the pay fixation formula laid down as above.”

According to him, the non-grant of increment on par with his junior is against Article 39(d) of Constitution also. So, the applicant seeks the following relief:-

“...to issue directions to the respondents to stepping up the pay of the applicant at par with his juniors and consequently direct the respondents to pay the entire arrears of salary as per the stepping up of his pay at par with his juniors and pass such further or other order or orders as this Tribunal may deem fit and proper under the circumstances and render justice.”

2. The respondents appeared and filed a detailed reply denying the allegations and averments contained in the OA. According to the respondents, the OA is barred for non-joiner of necessary parties as he has not impleaded his junior Chinna Raman in this OA. According to the respondents, the applicant was initially engaged as Project Casual Labour and he was granted temporary status w.e.f. 01.1.84. His scale was Rs.196-232. It was revised to Rs.750-940 in the 4th Pay Commission. His junior Chinna Raman was engaged as Project Casual Labour and he was granted temporary status w.e.f. 20.7.85 onwards and his scale was Rs.200-250 and it was revised as Rs.775-1025 in the 4th Pay Commission. The applicant has not properly exercised his option for fixation of pay while he was promoted from one scale to another and it has resulted in lower pay to the applicant. This is not an anomaly and it is only because

of the lack of interest shown by the applicant when his scale was changed. According to the respondents, the applicant has failed to exercise option as per Rule 1313-RII(FR22)(1)(a) at the time of promotion to the scale of Rs.2650-4000 w.e.f. 08.8.96. This has created the difference in the scale of pay and it cannot be considered as an anomaly and the applicant is not entitled to get any refixation.

3. We have heard the applicant and perused the pleadings. The case of the applicant is that he was given a lower scale when compared to his junior. His junior is getting a basic pay of Rs.3300/- and he is getting only Rs.3257/. One contention raised by the respondents is that the applicant has not impleaded the said junior Chinna Raman in the OA and the OA is hit by non-joiner of necessary parties. We have gone through the pleadings and record and it seems that the claim of the applicant is only for refixation of his pay on par with his junior and there is no reason to say that the claim of the applicant is against the interest of the said Chinna Raman who is junior to him. So, there is no merit in the contention that the said Chinna Raman has to be impleaded in this case.

4. The next point to be considered is whether the applicant is entitled to get refixation of pay on par with the said junior Chinna Raman as claimed by the applicant. The respondents in this case had come up with details of pay fixation given to both the applicant and Chinna Raman in the reply. It can be seen that the said disparity appeared only when the scale of Chinna Raman was fixed as Rs.2975/- in the scale Rs.2650-4000 w.e.f. 03.5.97. This is because the applicant has failed to give his option as per FR 22 w.e.f. 08.8.96. The respondents has clearly shown that

there is no case for the applicant to say that his pay was arbitrarily fixed below the pay of his junior. The contentions of the applicant that his pay was less when compared to his junior has no merit in this case. There is no arbitrariness or there is no question of any inequality of pay which discriminates him from his junior. In the light of the above circumstances, we find that there is no merit in the contentions raised by the applicant in this OA. The OA lacks merits and it is dismissed with no order as to costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

17.12.2019

/G/