

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 11836 of 2008 (S)

AGAINST THE ORDER/JUDGMENT IN OA 172/2007 of CENTRAL ADMINISTRATIVE
TRIBUNAL,ERNAKULAM BENCH DATED 26.11.2007

PETITIONERS:

1. UNION OF INDIA REPRESENTED BY GENERAL
MANAGER, SOUTHERN RAILWAY, HEAD QUARTERS OFFICE
CHENNAI-3.

2. THE SENIOR DIVISIONAL PERSONNEL OFFICER,
SOUTHERN RAILWAY, TRIVANDRUM DIVISION.

3. DEPUTY CHIEF PERSONNEL OFFICER/
CONSTRUCTION, SOUTHERN RAILWAY, EGMORE
CHENNAI.

4. DEPUTY CHIEF ENGINEER/CONSTRUCTION,
SOUTHERN RAILWAY, ERNAKULAM JUNCTION, ERNAKULAM.

5. CHIEF ADMINISTRATIVE OFFICER, SOUTHERN
RAILWAY, EGMORE, CHENNAI.

BY ADVS.SRI.C.N.RADHAKRISHNAN, SR.PANEL COUNSEL
SRI.JAMES KURIAN, SC, RAILWAYS

RESPONDENTS:

1. ELIZABETH MATHEW, SR.TRACKWOMAN,
O/O.THE DEPUTY CHIEF ENGINEER/CONSTRUCTION
SOUTHERN RAILWAY, ERNAKULAM.

2. REGISTRAR, CENTRAL ADMINISTRATIVE
TRIBUNAL, ERNAKULAM BENCH, KALOOR.

R,R1 BY ADV. SRI.T.C.GOVINDA SWAMY
ADV. SMT.D.HEERA
ADV. SRI.G.SHYAM RAJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-
06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- EXT. P1 : TRUE COPY OF O.A. NO. 172/07 FILED BY THE
FIRST RESPONDENT.
- EXT. P2 : REPLY STATEMENT FILED BY THE PETITIONERS HEREIN.
- EXT. P3 : MISCELLANEOUS APPLICATION FOR AMENDMENT OF THE
O.A 172/2007
- EXT. P4 : REPLY STATEMENT FILED BY THE PETITIONERS IN
EXT. P3
- EXT. P5 : ORDER OF THE CAT IN O.A. 172/2007 ISSUED ON
26.11.2007
- EXT. P6 : REVIEW APPLICATION FILED BY THE PETITIONERS
IN O.A. NO. 172/2007
- EXT. P7 : ORDER OF THE CATE IN REVIEW APPLICATION ISSUED ON
01.02.2008

/TRUE COPY/

P.A. TO JUDGE

P.R. RAMACHANDRA MENON

&

BABU MATHEW P. JOSEPH, JJ.

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W.P.(C) No. 11836 of 2008

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Dated, this the 12th day of June, 2015

JUDGMENT

Babu Mathew P. Joseph, J

The short question that arises for decision in this case is as to whether the grant of increment to the first respondent on 01.04.2000 as per Annexure A6 in Ext.P1 was right or wrong. The Central Administrative Tribunal found it was right. Aggrieved by the finding so entered by the Central Administrative Tribunal, the establishment preferred this writ petition challenging that order.

2. Heard the learned standing counsel appearing for the petitioners and the learned counsel appearing for the first respondent.

3. The first respondent was appointed as a casual labourer by the Railways in 1985. She acquired temporary

status on 09.02.1986. She was regularly appointed as Gangwoman w.e.f. 17.07.1993 in the pay scale of Rs.775-1025. Thereafter, based on her option, she was posted as Khalasi in the construction organization of the Railways on 20.08.1993 in the scale of pay of Rs.750-940. While working so, she was promoted on adhoc basis as an office Clerk/Typist and she worked as such from 01.03.1996 to 31.10.1996. The scale of pay applicable to that post was Rs. 3050-4590. Thereafter, she was reverted as Khalasi in the pay scale of Rs.750-940. Again she was promoted as office Clerk/Typist in the pay scale of Rs.3050 - 4590 from 01.12.1999 to 30.06.2007. These much facts, in respect of the service of the first respondent, are sufficient for the purpose of disposing of this writ petition.

4. The establishment issued Annexure A6 memorandum (in Ext. P1) fixing the pay of the first respondent in which her pay as on 01.12.1999 in the post of Clerk/Typist in the pay scale of Rs.3050 - 4590 is shown to be Rs.3200 plus personal pay of Rs.55. There is no dispute in regard to such fixation of

her pay. In Annexure A6, her next increment is shown as due on 01.04.2000. The establishment disputes this on the reasoning that since her pay has been fixed in the higher scale of pay only on 01.12.1999, she could earn her next increment only on completion of one year i.e. on 01.12.2000 in stead of 01.04.2000. This is based on the fact that the establishment is not prepared to take into account the service rendered by the petitioner on officiating basis on the very same pay scale from 01.03.1996 to 31.10.1996.

5. The service which can be reckoned for earning increment has been explained under Rule 1320 of the Indian Railway Establishment Code Volume II. Sub Rule (a) says that all duty in a post on a time scale counts for increment in that time scale. The first respondent was promoted and posted to officiate as a Clerk/Typist from 01.03.1996 to 31.10.1996 in the pay scale of Rs.3050-4590. Therefore, going by Rule 1320 of the Indian Railway Establishment Code, the service put in by the first respondent from 01.03.1996 to 31.10.1996 will qualify for earning increment. If that be so,

after promoting her again to officiate as Clerk/Typist on 01.12.1999, she is entitled to earn her next increment on 01.04.2000 in stead of 01.12.2000 taking into account the service put in by her from 01.03.1996 to 31.10.1996. In that view of the matter, we find no merit in the contentions raised challenging grant of increment to the first respondent w.e.f. 01.04.2000 in the post of Clerk/Typist in the pay scale of Rs.3050-4590. This writ petition is devoid of any merit and hence it is liable to be dismissed.

In the result, this writ petition is dismissed.

Sd/-
P. R. RAMACHANDRA MENON,
JUDGE

sd/-
BABU MATHEW P. JOSEPH,
JUDGE

kmd