

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Petn. Nos.9496 & 9498 of 2010
and
M.P.Nos.1,1 and 2 of 2010

1.Union of India, rep.by
The Senior Divisional Personnel Officer,
Southern Railway, Salem Division,
Salem ..1st Petitioner in WP.9496/10.
3rd petitioner in WP.9498/10.

2.The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat-678 002 ..2nd Petitioner in both WPs.

3. Union of India, rep. by
the Divisional Railway Manager,
Palghat Division, Southern Railway,
Palghat 678 002. ..1st Petitioner in WP.9498/10.

-vs-

1.The Central Administrative Tribunal,
Madras Bench,
rep.by its Registrar, High Court Buildings,
Madras. .. 1st respondent
in both the W.Ps.

2.C.Palanisamy .. 2nd Respondent in
W.P.No.9496/10

3.P.Venkatachalam ... 2nd respondent in
W.P.No.9498/10

WRIT Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records relating to the order dated 16.11.2009 passed in O.Ä.Nos.557 and 556 of 2008, respectively, by the

first respondent Tribunal, and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioners : Mr.P.Srinivasan for
M/s.Arulmudi Associates

For Respondents : Mr.L.Chandrakumar for R2
R.1 Tribunal.

COMMON JUDGMENT

(Judgment of the Court was delivered by
A.SELVAM, J)

These writ petitions have been filed against the common order passed in O.A.Nos.556 and 557 of 2008, by the Central Administrative Tribunal, Madras Bench.

2. The applicants in O.A.Nos.556 and 557 of 2008, have been appointed as Pointsman-B in Railways and with regard to fixation of their pay on par with their juniors, representations have been given to the second respondent, viz., Senior Divisional Personnel Officer, Palghat Division and the same have been rejected and subsequently, Original Application Nos.556 and 557 of 2008 have been filed on the file of the Central Administrative Tribunal, Madras Bench. The Central Administrative Tribunal, Madras Bench, after considering the rival evidence available on record, has allowed both the applications by way of passing the impugned common order and the same has been challenged in the present writ petitions.

3. The learned counsel appearing for the writ petitioners has contended that the claim of the applicants in O.A.Nos.556 and 557 of 2008 has been rightly rejected by the second respondent therein, but the Central Administrative Tribunal, without considering the nature of contentions put forth on the side of the respondents therein, has erroneously allowed the O.A.Nos.556 and 557 of 2008 and therefore, the common order passed by the Central Administrative Tribunal, is liable to be set aside.

4. Per contra, the learned counsel appearing for the second respondents in both the writ petitions has befittingly contended that as per decision No.3(iii) of the Precedent's decision, the second respondents/applicants being seniors, necessary protection should be given in the matter of pay and the Central Administrative Tribunal, after considering the contentions put forth on the side of the second respondents/applicants, has rightly allowed both Original Application Nos.556 and 557 of 2008 and therefore, common order passed by the Central Administrative Tribunal does not call for

any interference.

5. In fact, the learned counsel appearing for the second respondent in each petition has drawn the attention of the Court to Paragraph No.10 of the Order passed by the Central Administrative Tribunal, wherein it is stated as follows:

"... .However, in their order dated 19.11.2007 in O.A.No.363 of 2006, the CAT Ernakulam Bench has not discussed the merits of the claim raised by the applicants based on the President's decision No.11(ii). The respondents' contention is that President's decision in para 11(ii) is not applicable in the case of the applicants because they do not fulfill the conditions in terms of Decision No.3(ii) of the President's decision."

Further he has drawn the attention of this Court to decision No. (3) (iii) of President's decision and the same reads as follows:

"Points	Clarification
(3) Under Rule 1316 certain points of doubt under the above order are clarified as under:-	
(i)	
(ii)	
(iii) Whether the orders : of stepping up would apply to persons whose juniors pay in the lower post was inflated on account of the proviso to and exception below Rule 1313 (F.R.22) - having been allowed.	If as a result of application of the proviso to and the exception below Rule 1313(F.R.22) the pay of the junior is more than that of the senior in the lower post, there would be no question of stepping up the pay of the senior in the higher post. If despite the application of the proviso to and the exception below Rule 1313 (F.R.22) the junior's pay is less than that of the senior and on promotion the former's pay happens to be greater than the pay of latter by virtue of the provisions of Rule 1316 (F.R.22C), stepping up will have to be done with reference to the actual pay drawn by the junior in the higher post."

6. A mere reading of decision No.3(iii), it is made clear that if the pay of junior is less than that of senior and on promotion, the former's pay happens to be greater than the

pay of latter, by virtue of provisions of Rule 1316 (F.R.222C), stepping up will have to be done with reference to the actual pay drawn by the junior in the higher post.

7. In the instant case, the only claim made by the second respondents/applicants in the Original Application Nos.556 and 557 of 2008 is that their pay should be fixed on par with the pay of their junior, who has also been given promotion.

8. Considering President's decision No.3(iii), this Court is of the view that the applicants in O.A.Nos.556 and 557 of 2008 are entitled to get their claim.

9. The Central Administrative Tribunal, after considering the relevant Rules and also divergent contentions, has rightly allowed both the Original Applications and in view of the discussion made earlier, this Court has not found any acceptable force in the contentions put forth on the side of the writ petitioners in both the writ petitions and altogether the same are liable to be dismissed.

In fine, these writ petitions are dismissed, without costs. Connected miscellaneous petitions are dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

msk

To

1.The Registrar

The Central Administrative Tribunal,
Madras Bench,
High Court Buildings,
Madras.

+ 1 CC to M/s.P.Arulmudi Associates, Advocate SR NO 36658

+ 1 CC to Mr.L.Chandrakumar, Advocate SR NO 36844

W.P.Nos.9496 and 9498 of 2010

KJI [CO]
GP/20.7.