

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Petn. No.13207 of 2013

R.Sethumadhavan Petitioner

-vs-

1.Union of India,
rep.by the General Manager,
Southern Railway,
Chennai-600 003

2.The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai-104 Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus calling for the records relating to the order of the 2nd respondent made in O.A.No.436 of 2010 dated 31.10.2011, to quash the same and consequently, direct the respondents to re-compute the basic pension of the petitioner based on PB 2 (Rs.9300-34800) plus Grade Pay Rs.4200/-, with effect from 01.01.2006, with all the consequential benefits.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Dr.S.Seethalakshmi
Dr.M.Devendran, Standing counsel
for Railway

ORDER

(Order of the Court was made by A.SELVAM, J.)

This writ petition has been filed, under Article 226 of the Constitution of India, praying to call for the records relating to the impugned order passed in O.A.No.436 of 2010, dated 31.10.2011, by the Central Administrative Tribunal, Madras Bench and quash the same.

2. The petitioner herein, as applicant, has filed Original Application No.436 of 2010, on the file of the Central Administrative Tribunal, Madras Bench, wherein the present first respondent has been arrayed as respondent. In the application it is averred that the petitioner/applicant has served as Train Examiner in Indian Railways and he has been permitted to retire on 31.3.1991. At the time of his retirement he has drawn monthly salary on the basis of scale of pay of Rs.1,400/- - Rs.2,300/-. The fifth Pay Commission has come into effect on 01.01.1996 and on the basis of revised scale of pay, he is entitled to get benefits on the basis of Rs.5000/- - Rs.8000/-. Further it is averred in the application that after 01.01.1996, the post of Train Examiner has not been in existence and it has been re-designated as Junior Engineer Grade-II. On 30.10.2009, the first respondent has erroneously fixed the revised scale of pension of the applicant at Rs.4,500/- - Rs.7000/- and the same has been challenged in the present original application.

3. The Central Administrative Tribunal, after considering the contentions raised on either side, has dismissed the Original Application No.436 of 2010, by way of passing the impugned order and the same is being challenged in the present writ petition.

4. The learned counsel appearing for the petitioner has contended to the effect that the writ petitioner/applicant has been permitted to retire on 31.3.1991 as Train Examiner and on the date of his retirement, his scale of pay is Rs.1,400/- - Rs.2,300/-. On 01.01.1996, the 5th Pay Commission has come into effect and as per the revised scale of pay, his pension should be fixed on the basis of Rs.5000/- - Rs.8000/-. But, the first respondent has erroneously fixed the pension on the basis of Rs.4,500/- - Rs.7000/- and further, after 1.1.1996, there is no post of Train Examiner and the said post has been re-designated as Junior Engineer Grade-II and as per the revised scale of pay, Junior Engineer Grade-II is entitled to get Rs.5000/- - Rs.8000/- and on that basis, the writ petitioner is entitled to get his pension. Under the said circumstances, Original Application No.436 of 2010 has been filed on the file of the

Central Administrative Tribunal, Madras Bench, but the same has been erroneously dismissed and therefore, the order passed by the Central Administrative Tribunal, is liable to be quashed.

5. Per contra, the learned counsel appearing for the first respondent has contended that since the petitioner has been retired on 31.3.1991 and the 5th Pay Commission has come into effect on 01.01.1996, he is not entitled to get benefits on the basis of revised scale of pay. Under the said circumstances, the order passed by the Central Administrative Tribunal, Madras Bench, is perfectly correct and the same does not call for any interference.

6. It is seen from the records that after 1.1.1996, the post of Train Examiner has been re-designated as Junior Engineer Grade-II. As per 5th Pay Commission, Junior Engineer Grade-II is entitled to get pay scale of Rs.5000/- - Rs.8000/-.

7. The claim of the petitioner is very limited. As adverted to earlier, after 1.1.1996, the post of Train Examiner has been re-designated as Junior Engineer Grade-II and the revised scale of pay is Rs.5000/- - Rs.8000/- and the same is applicable to the petitioner.

8. Even in the letter given by the Railway Board, on 15.1.1999, it has been clarified to the effect that pension of all pensioners, irrespective of their date of retirement, shall not be less than 50% of minimum pay in the revised scale of pay with effect from 1.1.1996. Even from a cursory look of the clarification made by Railway Board, it is made clear that the petitioner is entitled to get 50% of the revised scale of pay by way of pension.

9. As mentioned supra, the only contention put forth on the side of the petitioner is as to whether he is entitled to get revised scale of pay of Rs.5000/- - Rs.8000/- or Rs.4,500/- - Rs.7000/-.

10. Considering the fact that the post of Train Engineer has been re-designated as Junior Engineer Grade-II and also considering the fact that from 1.1.1996, Junior Engineer Grade-II is entitled to get revised scale of pay of Rs.5000/- - Rs.8000/-, the same yardstick can also be extended/applied to the petitioner. Under the said circumstances, the claim of the petitioner can be accepted.

11. The Central Administrative Tribunal, without considering the aforesaid factual aspect and also the clarification made by the Railway Board, has erroneously dismissed O.A.No.436 of 2010 and therefore, the order passed by the Central Administrative Tribunal is liable to be quashed.

In fine, this writ petition is allowed without cost. The order passed in O.A.No.436 of 2010 by the Central Administrative Tribunal is quashed and O.A.No.436 of 2011 is allowed without cost. The revised fixation of pension done by the first respondent on 30.10.2009 is set aside and directed to re-fix the pension of the petitioner on the basis of revised scale of pay of Rs.5000/- - Rs.8000/-. The first respondent is directed to re-fix the pension of the petitioner within two months from the date of receipt of a copy of this order.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msk

To

1.The General Manager, Union of India
Southern Railway, Chennai-3

2.The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai-104

+1 cc to Mr.L.Chandrakumar Advocate sr 44036

+1 cc to Mr.M.Devendran Advocate sr 43860

सत्यमेव जयते W.P.No.13207 of 2013

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