

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 06.01.2017

Delivered on: 30.01.2016

Coram

The Honourable Mr. Justice K.K.SASIDHARAN

and

The Honourable Mr. Justice V.PARTHIBAN

W.P.Nos.4687 & 7764 of 2014

A.Alphonze

... Petitioner in
both petitions

Versus

1. The General Manager,
Southern Railway, Chennai-600 003.

2. The Divisional Railway Manager,
Southern Railway,
Tiruchirapalli Division,
Trichy.

3. The Divisional Personnel Officer,
Southern Railway,
Tiruchirappalli Division,
Trichy.

4. The Central Administrative Tribunal,
Madras Bench, Chennai-600 104,
rep.by its Registrar

.. Respondents in
both Writ Petitions

Prayer in W.P.No.4687 of 2014:

This Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed in O.A.No.,875 of 2010 dated 24.10.2013 on the file of the 4th respondent and direct the respondents 1 to 3 to fix the pay scale of the petitioner Rs.9300-34800 with effect from 01.01.2006 and consequently, revise his pension and pay arrears with interest.

Prayer in W.P.No.7764 of 2014:

This Writ Petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the

impugned order passed in R.A.No.57 of 2013 dated 31.12.2013 on the file of the 4th respondent and direct the respondents 1 to 3 to fix the pay scale of the petitioner Rs.9300-34800 with effect from 01.01.2006 and consequently, revise his pension and pay arrears with interest.

For Petitioner : Mr.P.Rajendran

For Respondents: Mr.V.Radhakrishnan, SC for
Mr.V.Haribabu for R1 to R3

COMMON ORDER

V.PARTHIBAN, J.

Aggrieved by the orders dated 24.10.2013 and 31.12.2013 passed by the 4th respondent in O.A.No.875 of 2010 and in R.A.No.57 of 2013, the petitioner has come forward with the present respective Writ Petitions.

2. The writ petitioner approached the Central Administrative Tribunal (in short, 'the Tribunal'), by way of Original Application in O.A.No.875 of 2010 for the following relief:

"To call for the records relating to the impugned order of the second respondent in No.T/P 535/III/TTI/5/Vol.II dated 11.1.2010 and quash the same and direct the respondents to fix the pay scale of Rs.9300-34800 with effect from 1.1.2006 and consequently revise the pension and pay the arrears amount with interest."

3. The brief facts, which gave rise to the filing of the Original Application, Review Application and the present Writ Petitions, can be stated as under:

4. The petitioner was working as a Senior Ticket Examiner in Southern Railway and retired from service on attaining the age of superannuation on 30.6.2008. While he was working as Senior Ticket Examiner, his basic scale of pay was Rs.4000-6000. On 18.10.2006, the petitioner was promoted to the adhoc post of Head Ticket Examiner in the pay scale of Rs.5000-8000 and his pay was fixed at Rs.5750/-. For regular promotion, the petitioner had to pass a selection test which was conducted in the year 2008. However, the petitioner was unsuccessful in the said selection test. In view of the same, the petitioner was reverted to the post of Senior Ticket Examiner in May, 2008.

5. While the matters stood thus, on implementation of VI Pay Commission recommendation, from 1.1.2006, the post of Head Ticket Examiner was merged with the post of Deputy CTI in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4200. After coming into effect the VI Pay Commission recommendation, the post of Head Ticket Examiner was made a non-selection post, for

which, there was no need to pass any selection test. In view of the subsequent development, the petitioner made a representation for proper fixation of his pay and pension in the merged pay scale, which was not acceded to. Therefore, the petitioner approached the Tribunal by filing O.A.875 of 2010, questioning the denial of proper Grade pay and calculation of pension thereof.

6. According to the petitioner, when the Original Application was filed, due to error in communication, it was wrongly mentioned in the Original Application that the post of Senior Ticket Examiner and Head Ticket Examiner were merged into one Pay Band of Rs.9300-34800 with Grade pay of Rs.4200 with effect from 1.1.2006 instead of mentioning the post of Head Ticket Examiner merged with the post of Deputy CTI. In view of the mistake crept in the Original Application, which sought to be corrected by the petitioner by filing a Miscellaneous Application 113 of 2013 and also sought permission to raise additional grounds. The said M.A. was allowed by the Tribunal on 30.7.2013 and thereafter, the Original Application was heard.

7. The learned Tribunal, after adverting to the submissions of the parties, dismissed the Original Application vide order dated 24.10.2013 on the ground that there was no merger of Head Ticket Examiner and Senior Ticket Examiner, but the post of Head Ticket Examiner and Deputy CTI alone was merged and in that view of the matter, the rejection of the petitioner's claim was justified.

8. The order of the learned Tribunal obviously had not taken into consideration subsequent filing of M.A. 113 of 2013 which was allowed on 13.7.2013. The petitioner having not satisfied with the order of the Tribunal, rightly filed the Review Application No.57 of 2013 by bringing it to the notice of the Tribunal about the factual position and prayed that the Tribunal may appreciate his claim with reference to merger of post of Head Ticket Examiner with the post of Deputy CTI. However, the learned Tribunal, without considering the claim of the petitioner even after the mistake pointed in the review application, dismissed the Review Application by order dated 31.12.2013. The learned Tribunal simply observed that even assuming the additional grounds raised in M.A.No.113 of 2013 were considered, the tenor of the operation of the original order would not change.

9. From the entirety of the approach adopted by the learned Tribunal both while dismissing the Original Application and Review Application, it could be seen that the learned Tribunal has not appreciated the claim of the petitioner with reference to subsequent development, namely, implementation of VI Pay Commission recommendation from 1.1.2006 and the merger of the post of Head Ticket Examiner with the post of Deputy CTI and while the post of Head Ticket Examiner was made as a non-

selection post with effect from 1.1.2006. That being the case, the claim of the petitioner had to be appreciated whether his reversion from the post of Head Ticket Examiner to Senior Ticket Examination in May 2008 could be sustained with reference to the subsequent development and whether the petitioner was entitled to be permitted on regular to the post of Head Ticket Examiner as passing of selection test was no more a condition precedent. These factors need to be addressed by the Tribunal, in proper perspective with reference to the available materials available on record.

10. In the above circumstances, this Court is of the view that in the interest of justice, the Writ Petitions can be disposed of with a direction that the matter be remanded back to the 4th respondent Tribunal for fresh consideration.

11. Accordingly, the present Writ Petitions are disposed of, remitting the matter to the 4th respondent Tribunal for fresh consideration. For this purpose, the Original Application in O.A.No.875 of 2010 shall stand restored and the Tribunal is directed to dispose of the Original Application on the above said factors, as expeditiously as possible, without being influenced by any of the observations made in this order. The orders impugned in both the Writ Petitions are set aside. No costs.

With the above direction, these Writ Petitions are disposed of. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

suk

To:

1. The General Manager,
Southern Railway, Chennai-600 003.

2. The Divisional Railway Manager,
Southern Railway,
Tiruchirapalli Division,
Trichy.

3. The Divisional Personnel Officer,
Southern Railway,
Tiruchirappalli Division,
Trichy.

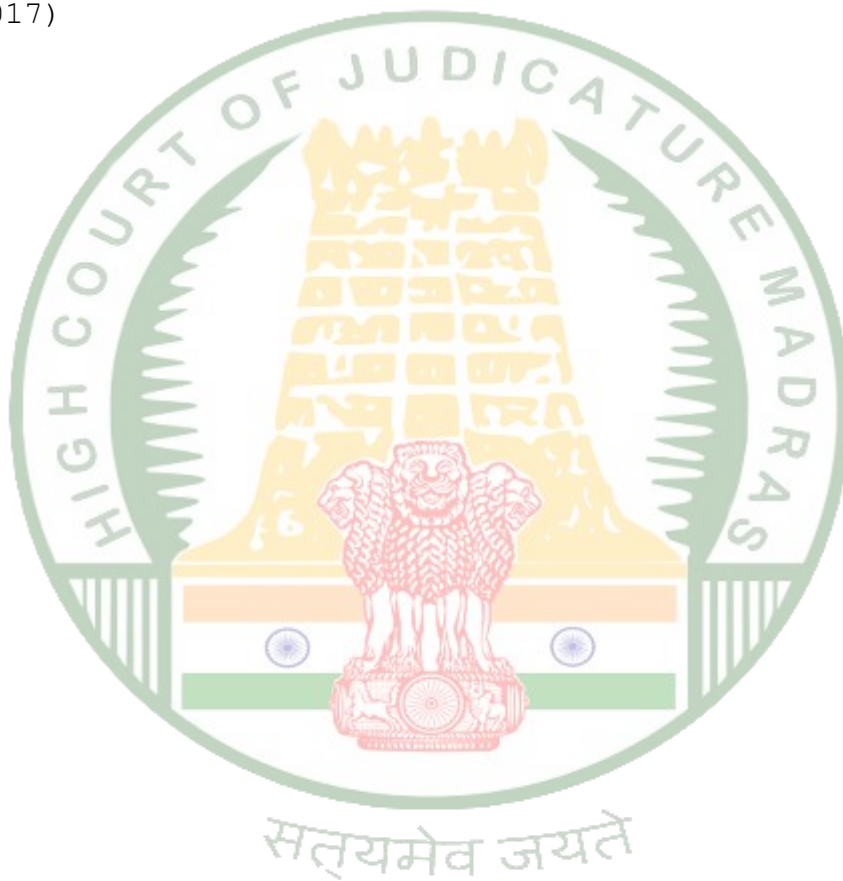
4. The Registrar, The Central
Administrative Tribunal,
Madras Bench, Chennai-600 104,

+1cc to Mr.P.Rajendran, Advocate sr.5664

+1cc to Mr.V.Haribabu, Advocate sr.5539

order in W.P.Nos.4687 and
7764 of 2014

kgk(co)
ss(14/2/2017)



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