

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

CORAM:

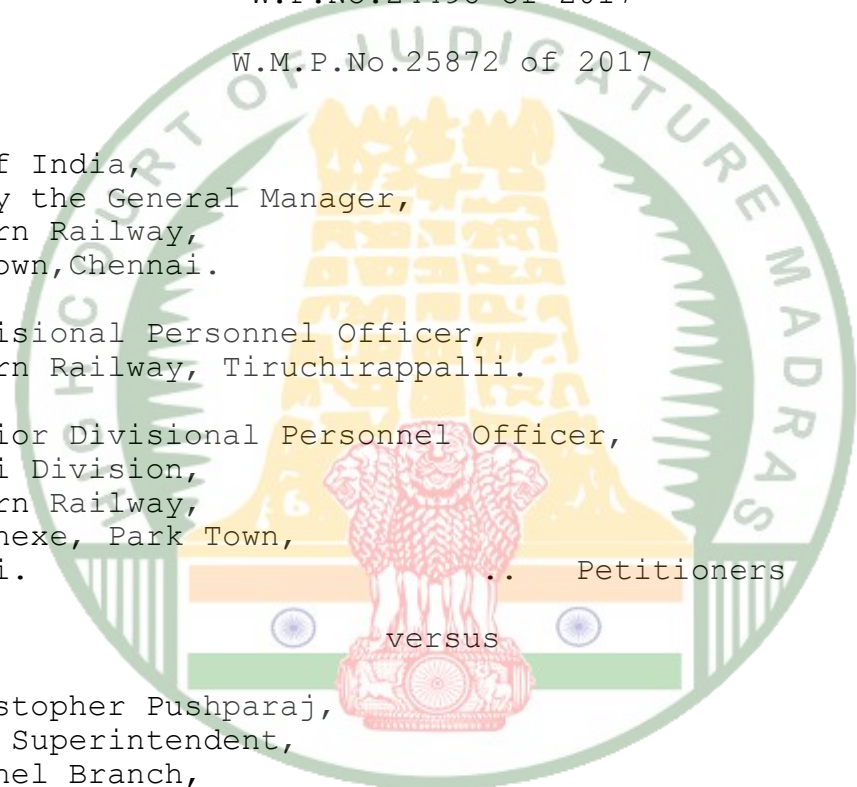
THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.24498 of 2017

W.M.P.No.25872 of 2017

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- 1.Union of India,
rep. By the General Manager,
Southern Railway,
Park Town,Chennai.
- 2.The Divisional Personnel Officer,
Southern Railway, Tiruchirappalli.
- 3.The Senior Divisional Personnel Officer,
Chennai Division,
Southern Railway,
NGO Annexe, Park Town,
Chennai. ... Petitioners
- versus
1. P.Christopher Pushparaj,
Office Superintendent,
Personnel Branch,
Southern Railway,
Chennai Division, Chennai. सत्यमेव जयते
2. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai. .. Respondents
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Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records, on the file of the 2nd respondent in O.A.No.310/00456/2015, dated 17.02.2017 and quash the same.

For Petitioners

: Mr.A.P.Srinivas

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenging the order, dated 17.02.2017, made in O.A.No.310/00456/2015, on the file of the Central Administrative Tribunal, Chennai, this Writ Petition is filed.

2. Short facts leading to the writ petition are as follows:

The 1st respondent, while working as Electrical Signal Maintainer, in the pay scale of Rs.4,500-7,000/-, was selected for the post of Assistant Station Master, in the same band and Grade Pay. Before appointment to the said post, he was subjected to the prescribed training. According to the 1st respondent, selection to the said post, is by promotion and as such, his basic pay should have been fixed at Rs.4,875/-, from the date of his appointment to the said post, i.e., from 16.02.2004, as provided for, under Rule 1313(FR 22)(I)(a)(1) of the Indian Railway Establishment Code. As the orders of the Tribunal, granting relief to the similarly placed persons, have been upheld by this Court and confirmed by the Hon'ble Supreme Court, he has made a representation to the Senior Divisional Personnel Officer, Tiruchirappalli Division, Southern Railway, Tiruchirappalli, 1st petitioner herein, to fix his basic pay at Rs.4,875/-. Since there was no response, he was constrained to file O.A.No.456 of 2015, for a direction to refix his basic pay at Rs.4,825/- and the consequential refixation, pursuant to the recommendations by the 6th Pay Commission, with all attendant benefits.

3. Before the Central Administrative Tribunal, Chennai, the petitioners have contented that the selection of the 1st respondent, as Assistant Station Master, cannot be construed as a promotion, since he was selected against 25% of net direct recruitment quota of Assistant Station Master post in Group-C service under General Departmental Competitive Examination. It was further stated that there is no avenue of promotion from the post of Electrical Signal Maintainer Grade II, to the post of Assistant Station Master and therefore, the movement of the 1st respondent to the post of Assistant Station Master cannot be described as a promotion having higher responsibilities. As per Railway Board's letter No.PC-IV/92/NL/JCM/4 Committee-9, dated 24.5.1999 that both the feeder and the promotional posts must be placed in an identical scales of pay in order to get the benefit under FR 22(I)(a)(1). According to the petitioners, the post of Electric Signal Maintainer held by the 1st respondent is not either the feeder or promotional post to Assistant Station Master.

4. Before the Tribunal, in respect of the order relied on,

by the 1st respondent in O.A.No.717 of 2006 (R.Pandian v. Union of India), it was the contention of the petitioners that the facts of the case of the 1st respondent are entirely different from that of the facts of R.Pandian's case and the said order is apparently distinguishable. For the reasons stated above, they prayed for dismissal of the application.

5. Considering the facts and circumstances of the case and materials on record, the Central Administrative Tribunal, Madras Bench, in O.A.No.310/00456/2015, passed an order, dated 17.02.2016, as follows:

"5. The applicability of Rule 1313 of Indian Railway Establishment Code had attained finality in case of promotion from one post to next higher posts with greater responsibilities by the Apex Court in the case of R. Pandian. Following the ratio of the judgment, number of applications have been allowed by the Tribunal. As the applicant herein is similarly placed, the order passed in Pandian's case squarely covers his case.

6. In the said circumstances, on his promotion to the post of Assistant Station Master from the post of Electrical Signal Maintainer, the applicant is entitled to higher fixation of pay of Rs.4825/- as claimed by him in the scale of pay of Rs.4500-7000. Consequentially, refixation of pay due to the implementation of the 6th Pay Commission's recommendations also to be made. However, arrears relating to such refixation as said above will be restricted to 3 years prior to the filing of the OA, in terms of the Apex Court's judgment in the case of Union of India and others Vs. Tarsem Singh. The date of filing of the OA was on 23.3.2015. The above direction shall be complied with, within a period of three months from the date of receipt of a copy of this order.

7. The OA is allowed as above. No order as to costs."

6. Challenging the said order, the petitioners have filed this present writ petition, for the relief, stated supra.

Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. It is not in dispute that in a similar circumstance (R.Pandian v. Union of India), the order passed by the Central Administrative Tribunal in O.A.No.717 of 2006 has been confirmed by this Court in W.P.No.30151 of 2007, by an order dated 25.02.2010. Pursuant thereto, the Railways have preferred a Special Leave Petition and the Hon'ble Apex Court was pleased to

pass a reasoned order in SLP (Civil) No.12847 of 2010 on 30.08.2010, dismissing the plea of the Railways, hereunder:

"..... In our view, the Tribunal had rightly interpreted Rule 1313 of the Railway Establishment Code and directed that the pay of the respondent who had been promoted from the post of Station Master Gr II to the post of Section Controller be re-fixed from the date he assumed higher responsibilities, i.e., 23.11.2003 and the High Court did not commit any error by refusing to interfere with the order of the Tribunal. The Special Leave Petition is accordingly dismissed."

8. As the issue in question had already reached finality, we are of the considered view that the action of the writ petitioners, in filing this writ petition and trying to re-agitate the same issue, again and again, is not correct and we find no error in the order, dated 17.02.2017, passed by the Tribunal, directing the Railways to re-fix the pay of the 1st respondent, with effect from 16.02.2004 and grant all consequential benefits, on such refixation.

9. In view of the above, the Writ Petition is dismissed and the petitioners are directed to comply with the order of the Tribunal, dated 17.02.2016, within a period of twelve weeks, from the date of receipt of a copy of this order, by extending all the monetary benefits, payable to the 1st respondent. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

सत्यमेव जयते

SUB ASST. REGISTRAR

To

The Registrar,
Central Administrative Tribunal,
Chennai.

+1 CC to Mr.A.p.Srinivas SR.No.67156/2017

W.P.No.24498 of 2017

VGI (CO)
VC (11/10/2017)