

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.P.No.24736 of 2017

1. S.Srinivasan
2. V.Subramaniam

... Petitioners

Vs

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai-104.
2. The Union of India,
rep. by its Secretary,
M/o.Personnel, Public Grievances and Pensions
Department of Personnel and Training,
North Block, New Delhi.
3. The Chief Personal Officer,
Southern Railway, Chennai-3.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records of the 1st respondent connected with the O.A.No.310/00247/2014 dated 19.07.2016, quash the same.

For Petitioners :: Ms.S.Kala

For Respondents ::

ORDER

(Order of the Court was made by HULUVADI G.RAMESH, J.)

Challenging the order of the 1st respondent passed in O.A.No.310/00247/2014 dated 19.07.2016, the present Writ Petition came to be filed.

2. The Original Application was filed seeking the following reliefs:

''to call for the records made in the impugned order of the 2nd respondent in P(S)353/III/Court case/TPJ Division and P(S) 353/III/Court Case/TPJ Division dated 29.11.2013.

a. Set aside the same as arbitrary and illegal and

b. Direct the respondents to refix the pay of the applicants by granting the proforma promotion on par with his immediate junior G.Krishnamoorthy (date of appointment is 8.6.1954) and the date of appointment of the 1st applicant is 01.12.1950 and 2nd applicant is 16.12.1950).

c. and consequently revise the basic pension of the applicants with all consequential benefits and arrears due thereon from 01.01.2006 till date of payment, and

d. issue such further and other appropriate orders or directions as this Tribunal may deem fit and proper in the facts and circumstances of the case and award costs and thus render justice.'

3. The applicants initially joined the Railways as Ticket Collector in the year 1950 and subsequently, promoted as Travelling Ticket Examiner. Originally, there were two different channels in Ticket Examiner Cadre such as Station and Travelling. The applicants were, thereafter, offered the next promotion as Senior Ticket Collector, which pertains to station and they opted to decline the same and continue to be as Travelling Ticket Examiner. Subsequently, on account of merger of station and travelling ticket collectors category respectively w.e.f. 01.01.1965, the seniority list was recast and published on 20.07.1981. In the seniority list, the applicants were placed below the Senior Ticket Collectors working in station on the basis of initial appointment as Ticket Collectors. This issue in some other divisions were challenged and finally, the Railways decided to calculate the date of promotion of TTE as the criterion to fix the seniority and accordingly, recast the same. Several cases were filed claiming seniority and retrospective promotion/proforma fixation of seniority, etc. and the Railways issued clarification in this regard and directed all the divisions to implement the same. All other divisions, except the Trichirappalli Division have implemented the order and granted notional promotion to similarly placed persons like the applicants. Accordingly, one junior to the applicants Mr.G.Krishnamoorthy was given promotion while the applicants who are seniors to the said G.Krishnamoorthy were not given the same and discriminated. Later, few others were given the proforma fixation on par with the said G.Krishnamoorthy by proceedings dated 03.06.1991. The applicants are entitled for proforma fixation on par with the said G.Krishnamoorthy. While so, one other V.Krishnamoorthy filed O.A.No.809/1996 before the Tribunal which was dismissed by the Tribunal, but the same was taken on appeal before the High Court of Madras in W.P.No.6057/2000 and the same was allowed by

order dated 20.06.2007. The SLP filed against the same by the department is dismissed on 02.03.2011. Enclosing a copy of the same, the applicants sent representations to the respondents. Since there was no reply, they filed O.A.Nos.1270 and 1271/2013 wherein by order dated 17.09.2013, the Tribunal directed the respondents to pass orders on the representations and in compliance of the same, the respondents have filed a vague order dated 29.11.2013 simply rejecting the claim of the applicants. Hence, the Original Application was filed.

4. A reply statement was filed by the respondents refuting the allegations of the applicants on three grounds, namely, the claim of the applicants is a time barred one which cannot be entertained at this point of time, the service records pertaining to the applicants are not available since it is 30 years old and the contention of the applicants that G.Krishnamoorthy is junior to them cannot be verified at this juncture. Hence, prayed for dismissal of the Original Application.

5. The matter is listed today under the caption, ''for admission''. We heard the learned Counsel appearing for the petitioners.

6. In this Writ Petition, the learned Counsel for the petitioner relying on a case of one V.Krishnamoorthy who filed O.A.No.809/1996 before the Central Administrative Tribunal which was dismissed by the Tribunal, but on appeal before this Court, it was allowed by order dated 20.06.2007 and the SLP filed against the same by the department is dismissed on 02.03.2011, would contend that similar benefits have to be extended to them also since they are on the same footing as that of V.Krishnamoorthy. But on a perusal of the records, it appears that the petitioners herein have not produced any relevant documents establishing their plea that one G.Krishnamoorthy is junior to them and he has drawn a more pension than that of the petitioners whereas the case of the petitioners was not considered. The Tribunal, having observed that no efforts have been made by the petitioners to establish their claim by producing cogent documents, has rejected the case of the applicants.

7. When things stood thus, it is for the petitioners herein to approach the Railway Department under the Rights to Information Act and secure relevant documents and find out how the discrimination as to how their junior G.Krishnamoorthy is drawing a higher pension than the petitioners and what actually happened in the case of the petitioners in drawing less pension than their junior. In this regard, the petitioner should do some exercise by approaching the Railway Department and securing

the relevant documents by which they could able to establish how discrimination and anomalies have occurred in the matter of granting higher pension to their junior one G.Krishnamoorthy.

8. In that view of the matter, while not interfering with the order of the learned Tribunal, we, however, give one more opportunity to the petitioners to make out a better case before the Tribunal by producing cogent evidence recorded so that it could consider and appreciate the documents to be produced by the petitioners to find out as to how the discrimination has occurred and do the needful in accordance with law. It is for the petitioners to secure all the necessary and relevant documents from the Railway Department within a period of 3 months from the date of receipt of a copy of this Order and file an Original Application, once again before the Tribunal within a period of three months thereafter.

9. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai-104.
2. The Secretary, Union of India,
M/o. Personnel, Public Grievances and Pensions
Department of Personnel and Training,
North Block, New Delhi.
3. The Chief Personal Officer,
Southern Railway, Chennai-3.

+1cc to Ms.S.Kala, Advocate, S.R.No.67397

+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No.67702

W.P.No.24736/2017

CS/24/10/17