

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN  
AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.10208 of 2018  
and WMP.No.12140 of 2018

R.Jayasankaran

.. Petitioner

Versus

- 1.Union of India  
rep.by the Executive Directorate,  
Ministry of Railways  
Railway Board  
Government of India,  
New Delhi.
- 2.The Director, Pay Commissioner-II  
Railway Board  
Ministry of Railways  
Government of India,  
New Delhi.
- 3.The Joint Commissioner, Pay Commission  
Railway Board,  
Ministry of Railways,  
Government of India, New Delhi
- 4.The Joint Director Estt.(N) III  
Railway Board,  
Ministry of Railways,  
Government of India, New Delhi.
- 5.The Chief Personnel Officer,  
Head Quarters Officer,  
Personnel Branch  
Southern Railways  
Chennai 600 003.
- 6.Divisional Personnel Officer,  
Divisional Officer,  
Personnel Branch,Southern Railways,  
Madurai.

7.The Assistant Personnel Officer (M&E)  
Divisional Office,  
Personnel Branch  
Southern Railway, Madurai.

8.The Additional Divisional Engineer,  
ADEN Office,  
Southern Railway, Madurai.

9.The Senior Section Officer  
Sivakasi Section,  
Madurai Division,  
Southern Railway, Sivakasi.

10.The Registrar,  
Central Administrative Tribunal  
Madras Bench, Chennai-1.

..Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 29.09.2016 passed by the 10<sup>th</sup> respondent and quash the same, consequently to direct the respondents to treat the date of the order dated 24.09.2013 issued by the 7<sup>th</sup> respondent as cutoff date and to implement the order No.2010/CE-I(Spl)/GNS/15Pt.1 dated 22.09.2014 issued by the 1<sup>st</sup> respondent by promoting the petitioner as Track Maintainer I.

For Petitioner : Ms.S.Meenakshi

For Respondents: Mr.M.Vijay Anand for Railways  
for R1 to R9

#### ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The petitioner is the first applicant in O.A.No.806 of 2015 before the Central Administrative Tribunal, Madras Bench and he prayed for the following reliefs:-

To direct the respondents to treat the date of passing of the order dated 24.09.2013 issued by the 7<sup>th</sup> respondent staying selection to the post of Keyman and Gangmate as cut off date, for restructuring applicants as Track Maintainer-I through Track Maintainer-II and thereby to implement the order No.2010/CE-I(Spl)/GNS/15/Pt.1 dated 22.09.2014 issued by the 1<sup>st</sup> respondent and promote the applicants as Track Maintainer-I with Grade Pay of Rs.2,800 with seniority, arrears and all other consequential benefits.

2. It is the case of the petitioner that he was working as a Keyman of SVKS Section in the year 2013 and the Southern Railway Divisional Permanent Way Training Centre, Madurai has issued a certification that he attended the Refresher Course for Keyman and also passed the above Course and the certification was valid upto 02.08.2018. The Assistant Personnel Officer (M & E) vide proceedings on the Office Order No.264/WP/2013 dealt with the subject of restructuring / reorganization of staffing pattern of Trackman and also referred the communication of Senior DFM/MDU dated 04.10.2013. The contents of the said communication would disclose that in the light of the Railway Board's letter dated 17.08.2012, the categories of Trackman / Trollyman/ Gateman / Watchman / Keyman in civil Engineering Department (P.Way) in Pay Band Rs.5200-20200(PB-1) with grade pay Rs.1800 and Gangmate in the same pay band (PB-I) with Grade pay Rs.1,100/- working under SSE/P, Way/SVKS have been clubbed and re-designated. The name of the petitioner finds place in S.No.79 with the present designation of Trackman and re-designated as Track Maintainer/CPM.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the communication of the Railway Board dated 22.09.2014 in No.2010/C-I(Spl)/GNS/15/Pt.I and would submit that the corrigendum of Railway P.Way manual with regard to duties of Track Maintainers in Grade-I to Grade-IV have been issued and as per Paragraph no.2(i): all categories of mate and keyman are re-designated as Track Maintainer Gr.I in Grade pay of Rs.2800 and as per 2 (ii): categories of Gangman/Trackman/Gateman/Trolleyman/P.way watchman are re-designated as Track Maintainer Grade II (Grade pay Rs.2400), Track Maintainer Grade III (Grade Pay of Rs.1800). The primordial submission of the learned counsel appearing for the petitioner is that after his designation was entered as Keyman in the earlier office order dated 04.10.2013, in the light of the corrigendum issued by the Railway Board dated 22.09.2014, he would not be designated as Trackman in the Grade pay of Rs.2,800/- and on account of wrong entries showing him as Trackman, he has been redesignated as Track Maintainer and as a consequence, losing financial benefits and therefore prays for appropriate orders.

4. The prayer of the petitioner is two fold. When this Court has put a specific question to the learned counsel for the petitioner that in the light of the settled position of law, the cut off date cannot be altered, the learned counsel on instructions has conceded to the said decision. Therefore the only issue remains for consideration is that whether the petitioner has been wrongly designated as Trackman in stead of Keyman.

5. Mr.M.Vijay Anand, learned counsel appearing for the respondents 1 to 9 has drawn the attention of this Court to the reply affidavit filed in the Original Application as well as in this writ petition and would submit that the petitioner was given the post as Keyman with same Grade Pay of Rs.1100 and hence posting the petitioner as Keyman in the Grade Pay was not a promotion. It is the further submission of the learned counsel for the respondents that initially on his selection and appointment, he was allotted to Thiruvananthapuram Division and joined there as Ty.Trackman on 16.03.2005 and thereafter on his own request, was transferred to Nagercoil and placed on the bottom seniority and once again was further transferred to Madurai on mutual grounds and posted to Senkottai and joined there on 21.07.2010 and again made request for transfer on one way to Sivakasi Section on bottom seniority on 02.03.2012 and accordingly he was accommodated and put on the bottom of the seniority list on 02.03.2012. Thus the seniority of the petitioner commences from the date of joining in the new unit at Sivakasi from 02.03.2012 only and as such he is not entitled to march over his seniors and that apart he has failed to implead his seniors as parties.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Admittedly the petitioner was a Keyman during the year 2013 and consequently cleared the Refresher Course for Keyman vide certificate issued by the Southern Railway Divisional Permanent Way Training Centre, Madurai. In the Office Order No.264/WP/2013 issued by the Assistant Personnel Officer (M & E), the petitioner is in S.No.79 shown as Trackman and working as Trackman. It is to be noted at this juncture that categories of Trakman/Trollyman/Gateman/Watchman/Keyman in Civil Engineering Department (P.Way) in Pay Band Rs.5200-20200(PB-1) with grade pay Rs.1800 and Gangmate in the same pay band (PB-I) with Grade pay Rs.1,100/- working under SSE/P, Way/SVKS have been clubbed and re-designated. Thus, therefore at that point of time, the petitioner would not have any grievance. However the Railway Board in the communication dated 22.09.2014 bearing No.2010/C-I(Spl)/GNS/15/Pt.I has issued a corrigendum and it is relevant to extract the same:

1.Ministry of Railways have already approved reorganization of staffing pattern of Trackmen to Track Maintainers Grade-I,II, III and IV on Indian Railways vide Railway Board's letter no.2010/CE-I (SPL)/GNS/15 (pt) dated 17.08.2012.

2.In pursuance to above, Board (ME) have approved duties of such reorganised trackmen categories under

Engineering Department as under:

(i) categories of mate and keyman are re-designated as Track Maintainer Gr.I in Grade pay of Rs.2800.

(ii):

categories of Gangman/Trackman/Gateman/Trolleyman/P.way watchman are re-designated as Track Maintainer Grade II (Grade pay Rs.2400), Track Maintainer Grade III (Grade Pay of Rs.1800).

3. Therefore, the existing duty / assignments, as mentioned in various chapters of IR P.Way manual w.r.t the categories of mate, keyman, gangman, Tackman, Gateman, Trolleyman, P.Way Watchman will accordingly be applicable for Track Maintainers Gr.I, Gr.II, Gr.III and Gr.IV, as detailed in para 2 above.

4. It is further clarified that in each unit of SSE (P.Way), senior person posted as Track Maintainer Gr.I will perform the existing duties of Gangmate and the junior persons in Track Maintainer Gr.I will be assigned the existing duties of Keyman.

If the petitioner was designated as Keyman in the above cited office order, he would have got the benefit of corrigendum of Railway Board dated 22.09.2014 and got re-designated as Track Maintainer (grade I in the grade pay of Rs.2,800/- and on the result of the fact that he was shown as a Trackman in the above cited office order, he lost the benefit of said corrigendum.

8. In the result, the writ petition is partly allowed and the impugned order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.310/00806/2015 dated 29.09.2016 is set aside and the respondents 5 to 9 are directed to apply the corrigendum dated 22.09.2014 by the Government of India, Ministry of Railways, (Railway Board) bearing No.2010/CE-I(Spl)/GNS/15/Pt.I and redesignate the petitioner as Track Maintainer Grade I in the Grade Pay of Rs.2,808 and confer him the consequential monetary and other benefits with effect from the date of said corrigendum dated 22.09.2014 and the said exercise is to be carried out within a period of 12 weeks from the date of receipt of a copy of this order and necessary communication in this regard shall also be sent to the petitioner. No costs.

sk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Executive Directorate,  
Union of India  
Ministry of Railways  
Railway Board, Government of India,  
New Delhi.
- 2.The Director, Pay Commissioner-II  
Railway Board  
Ministry of Railways  
Government of India,  
New Delhi.
- 3.The Joint Commissioner, Pay Commission  
Railway Board,  
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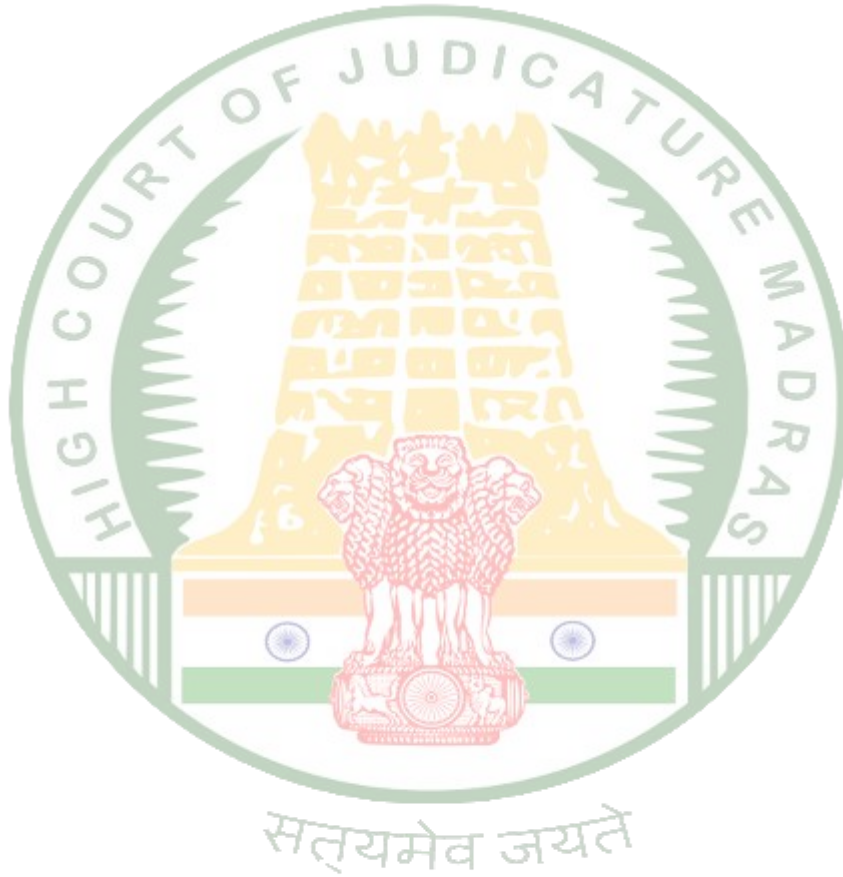
10.The Registrar,  
Central Administrative Tribunal  
Madras Bench, Chennai-1.

+1cc to Mr.M/s.S.Meenakshi, Advocate, SR.No.77316/19

+1cc to Mr.M.Vijay Anand, Advocate, SR.No.77209/19

WP.No.10208 of 2018

Kak(07/11/2019)



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