

High Court for the State of Telangana

The Hon'ble The Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Dr. Justice Shameem Akther

W.P. No. 16910 of 2019

Date: 09-08-2019

Between:

Union of India
Rep. by its General Manager
South Central Railway
Secunderabad and 3 others

...Petitioners

and

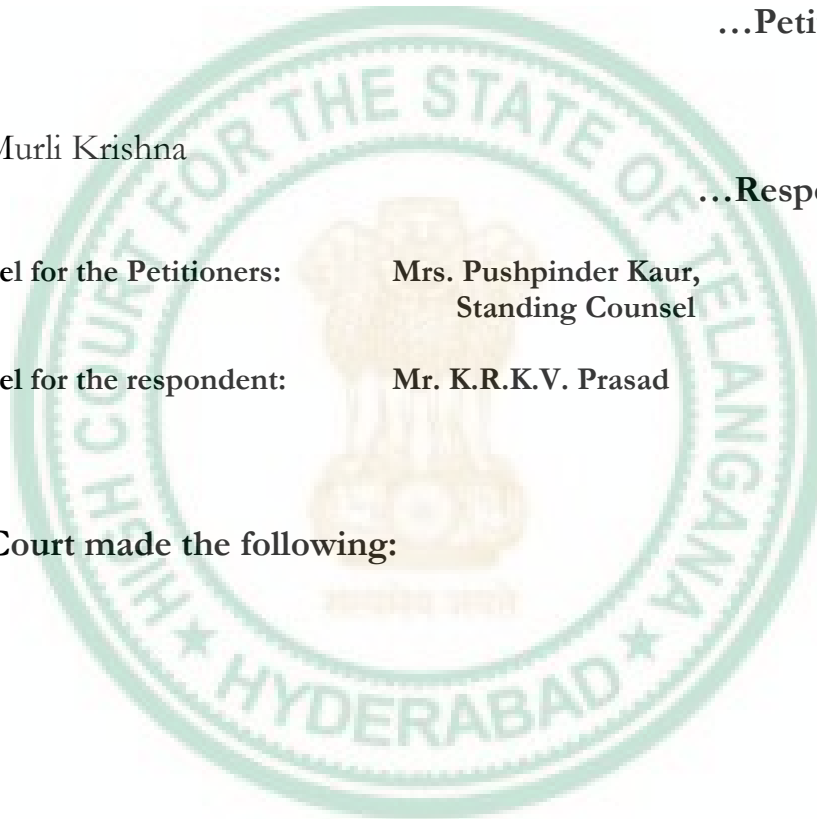
K.S. Murli Krishna

...Respondent

Counsel for the Petitioners: Mrs. Pushpinder Kaur,
Standing Counsel

Counsel for the respondent: Mr. K.R.K.V. Prasad

The Court made the following:



Order: (per Hon'ble The Chief Justice Raghvendra Singh Chauhan)

The Union of India, the petitioners, are aggrieved by the order dated 05-04-2019, passed by the Central Administrative Tribunal, Hyderabad Bench at Hyderabad (for short 'the Tribunal'), in O.A. No. 1349 of 2013, whereby the learned Tribunal has directed the petitioners as under:

- “i. to consider fixing of the pay of the applicant as Rs. 14, 340/- (Rs 10140 + 4200) in PB-2 of Rs. 9300 – 34,800 (6th CPC) w.e.f 1.1.2006 and pay arrears of pay and other allowances as per revised pay.
- ii. Time permitted is 3 months from the date of receipt of this order.
- iii. With the above directions the OA is allowed
- iv. No order as to costs.”

Briefly the facts of the case are that the respondent, applicant, was appointed on 10-03-1997 as Traction Assistant, in the pay scale of Rs. 3050–4590, at the Dornakal Junction of Secunderabad Division. Upon his request, he was transferred to Kazipet. During the course of his service, he was promoted as Senior Assistant Loco-Pilot in the pay scale of Rs.4000-6000 (5th CPC). While working as the Senior Assistant Loco-Pilot, on 28-02-2005, the applicant was sent for special medical examination. He was medically

de-categorised. Although the respondent was found suitable for the post of Assistant Engineer Grade-II by the Screening Committee on 06-06-2006, he was neither given the said post, nor a supernumerary post was created for his benefit. Instead, he was posted against an unspecified post. Since the respondent was aggrieved by the fact that he is not being absorbed against the post of Junior Engineer Grade-II, he filed an original application, namely OA.No.282 of 2009, before the learned Tribunal. Relying on its earlier decision in OA.Nos.282 and 634 of 2008, the learned Tribunal directed the petitioners to pay the arrears to the respondent duly adjusting the payment already made to him, and to post him accordingly.

In response to the direction issued by the learned Tribunal, by order dated 20-01-2010, the respondent was absorbed in the post of Technician Grade-I in the pay scale of Rs. 5200-20200 with grade pay of Rs.2,800/-. However, despite the order of the learned Tribunal to post the respondent as Junior Engineer Grade-II, the same was not done. Aggrieved by the omission committed by the Railways, the respondent filed a second original application,

namely OA.No.38 of 2010. Eventually, the learned Tribunal directed the Railways to absorb the respondent in the post of Junior Engineer Grade-II, and to pay the arrears of salary due. Moreover, the learned Tribunal directed the Railways to place the respondent in the pay scale of Rs.5000-8000 as per the 6th CPC. Despite the direction of the learned Tribunal, the Railways neither absorbed the respondent in the post of Junior Engineer Grade-II, nor gave him the benefit of the pay scale. Therefore, the respondent filed the present OA, namely OA.No.1349 of 2013, praying therein that he is entitled to be fixed in the pay scale of Rs.5000-8000, and that he is entitled to receive the arrears of salary. By the impugned order dated 05-04-2019, the learned Tribunal has granted the relief as prayed for by the respondent. Hence, the present petition before this Court.

The learned counsel for the petitioners has vehemently contended that the respondent cannot be granted the pay scale of Rs.9300-34800 (6th CPC) with effect from 01-01-2006, as obviously, on the said date, he was not working in the post of Junior Engineer Grade-II, Therefore, the learned Tribunal is unjustified in directing the

petitioners to fix the pay of the respondent as Rs.14,340/- in the pay scale of Rs.9300-34800 under the 6th CPC with effect from 01-01-2006.

On the other hand, the learned counsel for the respondent, submits that although the Railways had claimed that there were no vacancies in the posts of Junior Engineers Grade-II available in the year 2006, the said statement was belied by the answer given by the Railways itself in the RTI application filed by the respondent. For, while answering the RTI application, the Railways had clearly admitted that, in fact, there was a vacancy of the post of Junior Engineer Grade-II available on 01-01-2006. However, despite the availability of the said post, and despite the fact that the respondent had been cleared by the screening committee for the post of Junior Engineer Grade-II, the respondent was posted against an unspecified post. Thus, the Tribunal was justified in passing the order in favour of the respondent.

Heard the learned counsel for the parties, and perused the impugned order.

A bare perusal of the impugned order clearly reveals that the learned Tribunal has dealt with the checkered history of litigation between the petitioners and the respondent. The learned Tribunal has clearly noticed that despite the fact that on an earlier occasion, the learned Tribunal has directed the Railways to absorb the respondent in the post of Junior Engineer Grade-II, and to give him the benefit of the pay scale applicable to the said post, the said order was not even carried out. The Railways had taken a stand that due to the non-availability of the post of Junior Engineer Grade-II, the respondent could not be absorbed in the said post. However, the learned Tribunal has also observed that a false stand was taken by the Railways. For, according to the reply given to the RTI application filed by the respondent, the Railways has clearly admitted that even in the year 2006, there were vacancies existing in the posts of Junior Engineers Grade-II. Moreover, according to Rule 1307 of the Indian Railway Establishment Manual, the respondent would be entitled to the pay scale from the date that he is declared to be medically de-categorised. Therefore, the learned counsel was certainly justified in not only granting

the relief prayed by the respondent, but also in allowing the OA.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order dated 05-04-2019, passed by the learned Tribunal, in O.A. No. 1349 of 2013.

Hence, the present writ petition is devoid of any merit. It is, hereby, dismissed.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(Raghvendra Singh Chauhan, CJ)

(Dr. Shameem Akther, J)

Dt: 9th August, 2019
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