

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 2994 of 2019

Smt. Papiya Talukdar

.....Petitioner

Versus

1. Union of India through General Manager,
South Eastern Railway, Garden Reach, Kolkata
2. Chief Personnel Officer, South Eastern Railway,
Garden Reach, Kolkata
3. Assistant Personnel Officer, South Eastern Railway,
Sini work shop, District-Saraikela-Kharsawan
4. Dy. Chief Engineer (workshop), South Eastern Railway,
District-Saraikela-Kharsawan

.....Respondents

CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**
Hon'ble Mr. Justice Deepak Roshan

For the Petitioner : Mr. Anisurzzama Khan, Advocate

For the Respondent-UI: M/s. Devanand Kumar, Bakshi Viba, CGC

08 /08.08.2022 Heard learned counsel for the parties.

2. Prayer of the petitioner for pay fixation at par with junior Sri Madhusudan Bouri both in Technician Grade-II has been declined by Central Administrative Tribunal, Circuit Bench, Ranchi by order dated 15th March, 2019 passed in O.A. No. 051/00112/2017. Birth details of both the employees in their service career need not be gone into in detail because the alleged pay anomaly between the two has occurred on account of different options exercised by them for pay fixation under 6th Central Pay Commission brought with effect from 1st January, 2006. In terms of South Eastern Railway's Sr. No. 125/2008 implementing the Central Pay Commission Guidelines under Paras-5 and 6 thereof, every employee had to submit his option within three months from the date of notification of the order as to whether his/her pay may be fixed with effect from 1st January, 2006 or from the date of his next annual increment or from the date of his/her promotion to higher grade and the said option was to be final. As per the option submitted by the applicant, Technician Gr. II (Fitter), her pay was fixed at Rs. 8280/- only on 1st January, 2006 in revised pay under VIth Central Pay Commission and her pay arrived at Rs. 9290/- on 08.12.2006 while pay was fixed on promotion as Technician Gr. II. On the other hand, as per option submitted by Sri Madhusudan Bouri, Technician Gr.II (Fitter) he continued to draw his Vth Central Pay Commission pay @ Rs. 3200/- only upto 30th June, 2006 and on 1st September, 2006 he has got the benefit of annual incremental @ Rs. 75/- as per Vth Central Pay Commission scale. Thereafter, as Technician Gr. II his pay was fixed

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@ Rs. 9840/- with effect from 08.12.2006. This has resulted in difference of pay between the applicant and Madhusudan Bouri.

3. Respondents have also in their written statement at para-6 stated that the applicant was regularized in Gr. III with effect from 15.10.2003 while Madhusudan Bouri was promoted as Technician Gr. III with effect from 27.09.2003. Therefore, she was junior to Sri Madhusudan Bouri. But, the name of applicant has inadvertently been referred to two times one at Sl. No. 2 and other at Sl. No. 6 in the seniority list of Technician Gr. III. The actual position of seniority of the applicant is at Sl. No. 6 i.e., below Sri Madhusudan Bouri. Therefore, question of stepping up of pay in terms of Rule-10 of Establishment Sl. No. 125/2008 based on seniority also does not arise.

4. We have considered the submission of learned counsel for the parties. Learned counsel for the petitioner has not been able to meet the specific two grounds raised by the department in respect of her claim for rectification of pay vis-à-vis Madhusudan Bouri. Learned counsel for the petitioner does not dispute that the options were exercised by two employees at different points of time in terms of Establishment Sr. No. 125/2008. However, he submits that the department itself has two seniority lists, one in which the applicant is shown as senior to Madhusudan Bouri. The seniority list is not under question in the present proceedings nor Madhusudan Bouri is a party to the O.A or the present writ petition. We, therefore, cannot make any observations on the claim of seniority made by the petitioner in this proceeding. On the basis of the pleadings on record, it appears that the petitioner did exercise her option for revised pay under 6th Pay Revision earlier point of time before getting her increment and therefore the scale of pay of both the employees came to be different since Madhusudan Bouri exercised that option after getting an increment under 5th P.R.C. The applicant could not also be granted the stepping of pay as Madhusudan Bouri was not shown to be junior to the applicant.

5. Considering the aforesaid facts and circumstances, we do not find any grounds made out to interfere in the instant writ petition. Accordingly, writ petition is dismissed.

(Aparesh Kumar Singh, J)

(Deepak Roshan, J)