



W.P.No.8316 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

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K.N.Subramanian

... Petitioner

Vs.

1. Union of India,
rep. by the Secretary of the Government of India,
Ministry of Railways, Rail Bhavan,
New Delhi.
2. The General Manager, Southern Railway,
Park Town, Chennai 600 003.
3. Senior Divisional Personnel Officer, Southern Railway,
Palghat Division, Palghat.
4. The Registrar, Central Administrative Tribunal,
City Civil Court Building,
Chennai 600 104.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
seeking to issue a Writ of Certiorarified Mandamus calling for the records



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relating to the 5th respondent's order made in O.A.No.310/00451/2013 dated 05.07.2016, to quash the same and consequently direct the respondents 1 to 4 to step up the pay of the petitioner on par with his junior Mr.Viswanathan with consequential pay fixation and revision of retriial benefits ad pension in accordance with law with payment of arrears.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.T.Arunan, Senior Panel Counsel
for R1 to R4
R5 Tribunal

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This writ petition has been filed to quash the impugned order passed by the Tribunal O.A.No.310/00451/2013 dated 05.07.2016, and consequently direct the respondents 1 to 4 to step up the pay of the petitioner on par with his junior Mr.Viswanathan with consequential pay fixation and revision of retriial benefits ad pension in accordance with law with payment of arrears.



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2. The petitioner was initially appointed as Fire man 'A' and then he was worked as Goods driver; Passenger Driver; and Driver 'A' Special. Subsequently, he was promoted as Loco Inspector w.e.f. 07.05.1990 and further as Senior Loco Inspector on 31.08.2007 and he retired from service on attaining the age of superannuation on 31.08.2007.

2.1. According to the petitioner, his pay was fixed at Rs.9,100/- w.e.f. 1.1.1996 in the scale of 6500-10500 as Loco Inspector. But his Junior's pay namely, R.Viswanathan was fixed at Rs.9,100/- w.e.f. 1.1.1996 and at Rs.10,500/- w.e.f. 01.03.1996, vide memorandum dated 27.12.1999. Therefore, the petitioner is entitled for stepping up of pay on par with his junior Sri.R.Viswanathan.

2.2. The petitioner had filed O.A.No.585/2008 before the Tribunal Ernakulam Branch to consider the question of anomaly crept in the fixation of pay scale of the applicant with that of his junior, in the light of Annexure (A-5) and to pass appropriate orders. The Tribunal, vide order dated 9.03.2010, has directed the respondents to consider the claim of the



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petitioner. Pursuant to the order of the Tribunal, the Divisional Officer, Personal Branch, Palaghat, vide order dated 8.06.2010, has rejected the claim of the petitioner, stating that the the petitioner and his junior were promoted as Loco Inspectors prior to 01.01.1996 and the condions enunciated in the Borard's letter dated 13.07.2033 will not apply to the case of the petitioner, however the pay fixed on promotion as Loco Inspect and Senior Loco Inspector are found to be in order. Challenging the above said order, the petitioner had filed O.A.No.451/2013 before the Central Administraive Tribunal, Madras Bench, and the Tribunal, vide order dated 05.07.2016, has dismissed the application. Being aggrieved by the same, the petitioner has filed O.A.No.451/2013 on the file of Central Administrative Tribunal, Madras Bench, however, the Tribunal has dismissed the writ petition. Hence, this writ petition.

3. The learned counsel for the petitioner submitted that, the petitioner was promoted as Loco inspector from 07.05.1990 and his junior Viswanathan was promoted as Loco Inspector w.e.f. 06.12.1995. Though the petitioner's seniority position is high, and he was drawing more pay in



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all the Grades, the anomaly of his junior R.Viswanathan getting more pay than the petitioner arose, because the petitioner's pay was fixed taking into consideration of 30% and running allowance in the revised scale (V Pay Commission) with effect from 01.03.1996. He further submitted that, even though the petitioner was promoted as Loco Inspector as early as on 07.05.1990 and his Junior R.Viswanathan was promoted only on 06.12.1995 with the same scale of pay 6000-10500 in IV Pay Commission, the petitioner is entitled for stepping of pay on par with his junior, in terms of Railway Boards letter dated 20.07.2004. However, without appreciating the case of the petitioner in proper perspective, the Tribunal has dismissed the application and hence, he prayed to set aside the impugned order passed by the Tribunal.

4. The learned Senior Panel Counsel appearing for the respondents submitted that, the Tribunal has considered the case of the petitioner and found that there is no substance in his contention and hence, has rightly rejected the claim of the petitioner. Therefore, he seeks for dismissal of the writ petition.



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5. We heard the learned counsel for the petitioner and the learned Senior Panel Counsel appearing for the respondents. Also we have perused the materials on record.

6. A perusal of the comparative pay particulars of the petitioner and his junior R.Viswanathan reveals that, initially, the petitioner got higher pay than his junior. The records further reveals that the petitioner had opted for the new scheme of Loco Running Supervisors introduced from 01.01.1993 in terms of Railway Board's letter dated 25.11.1992 and he was re-designated as " Loco Inspector/Ed " with effect from 01.01.1993 and as Senior Loco Inspector on 01.11.2003 in the scale of Rs.7450-11500 and his pay was fixed at Rs.10,825/- w.e.f. 01.11.2003. However, the Junior R.Viswanathan had continued in the running staff category in PGT Division and was promoted as Mail driver w.e.f. 17.3.1992 and later promoted as Loco inspector in the scale of Rs.2000-32000 w.e.f. 6.12.1995 by fixing his pay at Rs.2,975/- and further promoted as Senior Loco Inspector in the scale of Rs.7450-11500 w.e.f. 24.01.2005. The above facts are not denied by he petitioner.



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7. It is to be noted that the Railway Board's letter dated 20.07.2004 governs the rectification of anomaly in fixation of pay of loco supervisory staff appointed prior to 01.01.1996 to the post of loco inspectors, with reference to their juniors appointed after 01.01.1996 and drawing more pay than the seniors. At this juncture, it is relevant to extract the conditions of the Board's letter dated 20.07.2004, which runs as follows.

" It has come to the notice of the Board that staff appointed prior to 01.01.1996 as Loco Running Supervisors in the pre-revised pay scales, whose pay has been fixed in the replacement scales for Loco Running Supervisors under the RSRP Rules, 1977, are drawing less pay than their juniors appointed to the Supervisory post after 01.01.1996. The anomaly has arisen due to the fact that the benefit of element of Running Allowance granted at the time of promotion of running staff to a stationary post has been granted to the junior in the revised scale, whereas, the same benefit granted to the senior is lesser value, as the same has been calculated on pre-revised pay scale.

It has been decided that the anomaly be resolved by granting stepping up of pay to the seniors at par with the juniors in terms of note 9 below Rule 7 of RSRP Rules, 1997.

The benefit of stepping up of pay will be subject to the following conditions.



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(a) The stepping up of pay will be allowed to running staff only appointed as loco supervisors in whose cases 30% of basic pay is taken as pay element in the running allowance. The stepping up of pay will not be admissible to the non-running staff of mechanical Department appointed as Loco running supervisors as in their cases, the question of pay element in the running allowance does not arise."

8. Here in this case, the petitioner as well as his junior were promoted prior to 01.01.1996. Therefore, the above said letter will not apply to the case of the petitioner. Further more, the petitioner had opted for new scheme of " Loco Running Supervisor" and hence, his designation in the post of Diesel Driving Instructor (DDI) was re-designated as Loco Inspector/Ed w.e.f. 01.01.1993, whereas, his junior was continuing in the " running staff " category and he was promoted from the post of Mail Driver to the post of Loco Inspector. This fact is also not denied by the petitioner. Since the petitioner and his junior were promoted as Loco Inspector from different feeder categories, he is not entitled for stepping up of pay as prayed for by him. Therefore, we are of the view that there is no justification in the contention of the petitioner and hence, the order passed by the Tribunal does not warrant any interference by this Court.



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WEB COPY 9. Accordingly, this writ petition is dismissed. No costs.

(D.K.K.J.)

(P.B.B.J.)

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Internet: Yes/No

Index : Yes/No

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To

1. The Secretary to the Government of India,
Union of India, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway,
Park Town, Chennai 600 003.
3. Senior Divisional Personnel Officer, Southern Railway,
Palghat Division, Palghat.
4. The Registrar, Central Administrative Tribunal,
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