

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**WEDNESDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION NO: 3889 OF 2013

Between:

P.G.Srinivasan, S/o late P.Gopalakrishnan, aged 81 years, Retd. Head Clerk,
South Central Railway, R/o 1-9-1113/14/A/2, D.No.444, Vidyanagar, Road
No.6, Hyderabad-500 044.

...PETITIONER

AND

1. Union of India, represented by The Secretary (Establishment), Ministry of Railways, Railway Board, New Delhi.
2. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
3. The Financial Adviser, and Chief Accounts Officer, 2nd Floor, Rail Nilayam, South Central Railway, Secunderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Certiorari by calling for the order dated 18.09.2012 in O.A No.830 of 2011 on the file of the Central Administrative Tribunal, Hyderabad Bench and also the records pertaining to order of revision of pension issued vide corrigendum No.A/PN/1/2/1874, dated 08.04.2011 and the letter No.APN/1/2/1874, dated 31.05.2011 and declare the same as illegal, unconstitutional and is in violation of the Rules governing the subject and set aside the order of the learned Tribunal to the extent of the direction that the corrigendum can be brought into effect from April, 2011 and accordingly set aside the corrigendum dated 08.04.2011 and letter dated 31.05.2011 and direct the respondents to restore the pension of the petitioner as fixed vide proceedings No.APN/1/2/1874, dated 16.06.2009 and

accordingly draw the pension even after April, 2011 with all other consequential benefits.

I.A. NO: 1 OF 2013(WPMP. NO: 4845 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant expeditious hearing of the Writ Petition as the petitioner is 81 years old and a senior citizen.

Counsel for the Petitioner: SRI K.R.K.V.PRASAD

Counsel for the Respondents: SMT K.MANI DEEPIKA, SC FOR RAILWAYS

The Court made the following: ORDER

**THE HON'BLE SHRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION No.3889 OF 2013

ORDER: (Per AKS,J)

This Writ Petition is filed aggrieved by the order, dated 18.09.2012, passed in O.A.No.830 of 2011 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal').

2. Heard Sri K.R.K.V. Prasad, learned counsel for the petitioner and Smt. K. Mani Deepika, learned Standing Counsel, appearing for the respondents.

3. Learned counsel for the petitioner had contended that the petitioner is a retired Head Clerk. He retired from service on 31.05.1989 on attaining the age of superannuation i.e. prior to implementation of 5th CPC pay-scales. On retirement, the respondents have fixed the pension of the petitioner as per 4th CPC pay-scales. Consequent upon implementation of 6th CPC, the pension of the petitioner was revised and reduced *vide* proceedings, dated 08.04.2011, i.e. nearly after 21 years of his retirement, and it was also directed to recover the excess amount paid to the petitioner. In those set of circumstances, the petitioner has approached the Tribunal by filing the subject O.A.No.830 of

2011 and the Tribunal *vide* impugned order, dated 18.09.2012, was pleased to dispose of the subject O.A. by directing the respondents not to recover the excess amount paid to the petitioner, but, however, it has not interfered with the revision of pension. Aggrieved by the said order, dated 18.09.2012, to the extent of not interfering with the revision of pension of the petitioner, which was done after 21 years of his retirement, the present Writ Petition is filed.

4. Learned counsel for the petitioner has relied upon Rule 90 of Railway Services (Pension) Rules, 1993 (for short, 'the Rules') and contended that once the pension is sanctioned, it cannot be revised to the disadvantage of the railway servant unless such revision becomes necessary on account of detection of a clerical error, provided that no revision of pension shall be ordered by the Head of Office without the concurrence of the Railway Board if the clerical error is detected after a period of two years from the date of sanction of pension. Admittedly, in the instant case, the respondents have not taken the concurrence of the Railway Board and the respondents were trying to revise the pension of the petitioner nearly after 21 years of sanction of pension, which is not permissible. Therefore, appropriate orders be passed in the Writ

Petition by setting the impugned order, dated 18.09.2012, and further, direct the respondents not to revise the pension of the petitioner and to pay the originally sanctioned pension to the petitioner and also direct the respondents to pay arrears of pension.

5. Learned Standing Counsel appearing for the respondents had contended that the Railway Board *vide* letter, dated 02.02.2010, has given concurrence to revise the pension of those employees, whose pension was erroneously fixed and only after receiving concurrence from the Railway Board, the respondents have revised the pension of the petitioner. Therefore, the Tribunal has rightly not interfered with the revision of pension, as revision of pension was done with the concurrence of the Railway Board. Thus, the respondents have complied with Rule 90 of the Rules. Therefore, there are no merits in the Writ Petition and the same is liable to be dismissed.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that the Tribunal was justified in not interfering with such portion of the proceedings, dated 08.04.2011, where revision of pension of the petitioner has been carried out by the respondents, that too, after

obtaining concurrence from the Railway Board. As far as recovery is concerned, the Tribunal has rightly granted relief in favour of the petitioner. Therefore, this Court is not inclined to interfere with the impugned order, dated 18.09.2012, as the respondents have complied with Rule 90 of the Rules.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/- G. SIREESHA
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. One CC to SRI K.R.K.V.PRASAD, Advocate [OPUC]
2. One CC to SMT K.MANI DEEPIKA, SC FOR RAILWAYS [OPUC]
3. Two CD Copies

BSR
GJP

Pmg

HIGH COURT

DATED: 01/11/2023

ORDER

WP.No.3889 of 2013



**DISMISSING THE WRIT PETITION,
WITHOUT COSTS**

⑤ pmg
25/11/23.