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W.P.No.16002 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.16002 of 2020

R.Alagesan

... Petitioner

-VS-

1. The Union of India,
Rep. by the General Manager,
Southern Railway,
Park Town, Chennai-3.
2. The Senior Divisional Personnel Officer,
Madurai Division,
Southern Railway,
Madurai.
3. The Central Administrative Tribunal,
Rep. by the Registrar,
Chennai Bench, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 20.03.2018 passed by the 3rd respondent in O.A.No.1531 of 2015, quash the same as unconstitutional and consequently, direct the respondents 1 and 2 to grant Officiating Allowance to the petitioner for the period he discharged duties as Shunting Master.

For Petitioner : Ms.S.Meenakshi
For R1 & R2 : Mr.M.Vijay Anand
Central Govt. Standing Counsel
For R3 : Tribunal

J U D G M E N T



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(By D.Krishnakumar,J.)

This Writ Petition has been filed, challenging the order dated 20.03.2018 of

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the 3rd respondent / Tribunal made in O.A.No.1531 of 2015, by which the claim of the petitioner to grant him the Officiating Allowance for the period he discharged duties as Shunting Master was rejected.

2. It is the case of the petitioner that he was appointed in the Traffic Department and was sent for training and wrote the Departmental Examination, in which he was qualified to discharge the duties of the post of Points Man, Cabin Man, Shunting Jamedar and Shunting Master. By an oral order, he was asked to discharge the duties of Shunting Master from 02.02.2014 and he attained superannuation with effect from 31.01.2015. It is further case of the petitioner that he was regularly holding the post of Cabin Man in the scale of pay of Rs.5200-20200 (2400 Grade Pay) and was made to discharge the duties of Shunting Master, which carried the scale of pay of Rs.9300-34800 with Grade Pay of Rs.4200/-. The petitioner relied upon Rule 1313(a)(1) of the Indian Railway Establishment Code to state that if a Railway Servant holding a post is appointed in a substantive, temporary or officiating capacity, he should be fixed at the next above notional pay by increasing his pay in the lower post held by him regularly by an increment. It is also the case of the petitioner that though he made a representation in this regard, seeking for increment, his claim was rejected and aggrieved by the same, the



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petitioner had filed Original Application before the Tribunal, which was dismissed and the same necessitated the petitioner to invoke the writ jurisdiction of this Court and to file the present Writ Petition.

3. Learned counsel for the petitioner has submitted the fact that Tribunal has failed to consider the provisions of Rule 1313(a)(1) of the Indian Railway Establishment Code in a proper perspective and he has also produced documents before this Court to establish that he had been appointed as Officiating Shunting Master in the Railway Department till his retirement. Thus, learned counsel for the petitioner has stated that the order of the Tribunal is liable to be set aside and the petitioner is entitled to the benefits as per the relevant Rule.

4. Learned Central Government Standing Counsel appearing for the Railways / R1 & R2 has contended that the Station Manager is not a competent authority to depute the petitioner to discharge the duties of Shunting Master, as the concerned authority for such diversion of duties is Senior Divisional Operation Manager. He has further contended that unless Official order is passed for discharging the duties of Shunting Master, the petitioner cannot claim benefits under Rule 1313(a)(1) of the Indian Railway Establishment Code and therefore, the Tribunal has rightly considered the said aspect and dismissed the application.



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5. Heard the learned counsel for the parties.

6. At the first blush, we feel it appropriate to extract Rule 1313(a)(1) of the Indian Railway Establishment Code:

“1313 (FR-22) (I) –The initial pay of a railway servant who is appointed to a post on a time scale of pay is regulated as follows:-

(a) (1) Where a railway servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity as the case may be, subject to the fulfillment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty five only, whichever is more.

Save in cases of appointment on deputation to an ex-cadre post, or to a post on ad-hoc basis, the railway servant shall have the option, to be exercised within one month from the date of promotion or appointment as the case may be, to have the pay fixed under this rule from the date of such promotion or appointment or to have the pay fixed initially at the stage of the time scale of the new post above the pay in the lower grade or post from which he is promoted on regular basis, which may be re-fixed in accordance with this rule on the date of accrual of next increment in the scale of the pay of the pay of the lower grade or post. In cases where an ad-hoc promotion is followed by regular appointment without break, the option is admissible as from the date of initial appointment/promotion, to be exercised within one month from the date of such regular appointment:

Provided that where a railway servant is, immediately before his promotion or appointment on regular basis to a higher post, drawing pay at the maximum of the time scale of the lower post, his initial pay in the time



scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post held by him on regular basis by an amount equal to the last increment in the time scale of the lower post or rupees twenty five, whichever is more.”

7. The core contention raised by the learned Standing Counsel for the Railways that Station Manager is not the competent authority and at the same time, the respondent Railways have not produced any material before this Court in respect of initiation of proceedings against the Station Manager, who had wrongly posted the petitioner in the post of Shunting Master. It is borne out of records that the petitioner had worked as Shunting Master from 02.02.2014 till he attained the age of superannuation, namely, 31.01.2015. That apart, the Rule extracted supra is very clear that in the event of a Railway Servant executing duties and responsibilities of greater importance than the post actually held by him, then the scale of pay applicable to the higher post should be fixed. The Department, having extracted the work in the higher post, cannot take a stand that the petitioner was not officially appointed as Shunting Master in the Department and the technical ground raised in deviation of the relevant Recruitment Rules, has no legs to stand and is liable to be rejected.

D.KRISHNAKUMAR,J.,
AND
K.KUMARESH BABU,J.,
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8. In the result, this Writ Petition is allowed and the order dated 20.03.2018 of the 3rd respondent / Tribunal made in O.A.No.1531 of 2015 is set aside, holding that the petitioner is entitled to the benefit under Rule 1313(a)(1) of the Indian Railway



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Establishment Code. The respondents 1 and 2 are directed to consider the claim of the petitioner and pay the applicable Officiating Allowances to him, if he is otherwise eligible, for the period he discharged his duties as Shunting Master, within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs.

[D.K.K., J.,]

[K.B., J]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

1. The General Manager,
Union of India,
Southern Railway,
Park Town, Chennai-3.
2. The Senior Divisional Personnel Officer,
Madurai Division, Southern Railway,
Madurai.

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