



W.P.No.26972 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 20.06.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.26972 of 2014

and

M.P.No.1 of 2014

V.Sathyanathan

... Petitioner

Vs.

1.The Union of India, Rep by the Secretary,
Ministry of Railways,
Railway Board, New Delhi-1.

2.The Managing Director,
Indian Railway Catering and
Tourism Corporation, Corporate Office,
9th Floor, Bank of Baroda Building,
16, Parliament Street,
New Delhi 110 001

3.The Regional Director,
Indian Railway Catering and
Tourism Corporation,
South Zone, Chennai

4.The Deputy General Manager/HRD,
Indian Railway Catering and
Tourism Corporation,



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South Zone,
No.9, Mec Nichols Road,
Chetpet, Chennai 31.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for records relating to the order of the 4th respondent made in No.IRCTC/HRD/OA/782/2014 dated 28.07.2014, quash the same and consequently direct the respondents to fix the petitioner in the scale of pay of Rs.16400-30000 w.e.f. 01.01.2007 and to extend all other benefits including arrears with admissible interest.

For Petitioner : M/s.L.Chandrakumar

For Respondents :
(for R2 & R4) : Mr.V.G.Suresh Kumar
(for R1) : No appearance

ORDER

The above writ petition has been filed to quash the order dated 28.07.2014 passed by the 4th respondent and to direct the 4th respondent to fix the petitioner in the scale of pay of Rs.16400-30000 with effect from 01.01.2007 and to extend all other benefits



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including arrears with admissible interest.

WEB COPY 2. The petitioner had initially joined the services of the Indian Railways in the year 1985 in the Southern Railway as a Catering Supervisor. Thereafter, he was deputed to the Indian Railways Catering and Tourism Corporation Ltd., (hereinafter called as "IRCTC") as a Chief Supervisor. In order to make the avenue of appointment in the IRCTC to be more attractive, the IRCTC had called for auctions before absorption. The IRCTC had offered to give the higher scale of pay to persons who were willing to join commensurate with the scale of pay which they were already drawing in the Railways.

3. The petitioner had exercised his option to be absorbed by the IRCTC and with effect from 01.01.2007 the petitioner's scale of pay which was Rs.6400-10000 came to be revised with the implementation of the VI Pay Commission to the scale of pay of Rs.12300-28600.

4. It is the petitioner's case that the post held by him as of



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31.12.2005 was as a Catering Supervisor and he was in the pay scale of Rs.5000-8000. This pay scale was upgraded as Rs.5500-9000 in the revised pay band Rs.9300-34800 with Grade Pay of Rs.4200/- which has become effective retrospectively from 01.01.2006. It is therefore, the contention of the petitioner that he ought to have been extended the post of Executive (E1) in Industrial Dearness Allowance (hereinafter referred to as "IDA") scale of pay Rs.16400-30000. Since the respondents had omitted to give him this pay scale, the petitioner had made a representation on 18.10.2013. Since his representation was not taken into consideration the petitioner had filed an application before Central Administrative Tribunal in O.A.No.782 of 2014 seeking to be accommodated in the appropriate pay scale of 16400-30000 with effect from 01.01.2007. By order dated 09.06.2014, the Central Administrative Tribunal, Madras Bench had directed the 4th respondent to consider the representation of the petitioner on merits and pass orders.

5. Pursuant to the above order, the 4th respondent rejected the claim without properly considering the petitioner's case vide its



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proceedings dated 28.07.2014 contending that the petitioner had willingly opted to be absorbed in the IRCTC and having voluntarily agreed so and having come into the rules of IRCTC, the claim of the petitioner is without any basis. Aggrieved by the said order the petitioner is before this Court.

6. Respondents 2, 3 and 4 have filed a counter denying the claim of the petitioner. The respondents would submit that the petitioner who was working as a Catering Inspector in the pay scale of Rs.5000-8000 in the Southern Railway was inducted to the IRCTC on deemed deputation. Thereafter, the petitioner had submitted his willingness to join the IRCTC on a permanent absorption on 30.08.2006 and at that point in time the petitioner was drawing the pay scale of Rs.5000-150-8000. As per the equilizer statement of Central Dearness Allowance (hereinafter referred to as "CDA") scale into IDA scale, the said post of Catering Inspector was equivalent to that of a Senior Supervisor (S.3) grade at Rs.6000-160-9200 IDA. Therefore, the petitioner was offered a next higher post of Chief Supervisor in the pay scale of Rs.6400-180-10000 and with effect



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from 01.01.2007, the IDA pay scale was thereafter revised and as per the second Pay Commission recommendations, the petitioner's pay in IDA scale was fixed at Rs.19000/-.

7. Consequent to the merger of the grades in terms of the VI Pay Commission recommendations, the petitioner had submitted a representation on 18.10.2013 asking to place him in the scale of pay of Rs.16400-40500 (IDA) and following it up with an application to the Central Administrative Tribunal in O.A.No.782 of 2014. The Tribunal had directed the respondents to dispose of the petitioner's representation within a period of 8 weeks.

8. The respondents would also submit that the promotion to the next higher post, namely, from Chief Supervisor (S-4) grade to Executive (E0) grade involves a change of group and the promotion can only be made subject to the availability of vacancies and by selection. Therefore, the petitioner had also appeared in the examination for promotion twice but had failed to qualify. The respondents would submit that others who have been absorbed in the



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same post as that of the petitioner continues to draw the scale of pay applicable to the (S-4) grade. They would submit that there is no merit in the claim of the petitioner and seek to have the writ petition dismissed.

9. Heard the learned counsels on either side.

10. Admittedly, the petitioner was originally employed with the Southern Railway as a Catering Inspector. Thereafter, he had been deputed to the IRCTC. The post equivalent to that of the Catering Inspector in the IRCTC was that of a Senior Supervisor in the S-3 grade. Therefore, by reason of the option letter, the petitioner was offered a post of Chief Supervisor (S-4) grade drawing a sum of Rs.6400-180-10000 with effect from 01.01.2007. The petitioner who had exercised his option to be absorbed in the IRCTC cannot now seek to be treated as an employee of the Railways in order to get the benefit of the VI Pay Commission. It is also seen that the petitioner has appeared in the examination for promotion from Chief Supervisor (S-4) grade to Executive (E-0) grade.



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11. For the above reasons, the petitioner's claim cannot be sustained and consequently, the impugned order is very much in order and I see no reason to set aside the same. Accordingly, the above writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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(shr)

Index : Yes

Speaking Order

Neutral Citation : Yes

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