IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 26-03-2026**

CORAM

**THE HON'BLE MR JUSTICE P. VELMURUGAN**

**AND**

**THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI**

**WP No. 22911 of 2023**
**and**
**WMP No.22405 of 2023**

1.Union of India Rep. By
The General Manager
Southern Railway
Park Town, Chennai -3

2.Chief Personnel Officer
Southern Railway
Chennai – 3

3.Workshop Personnel Officer
Railway Workshop
Ponmalai
Chennai - 4

..Petitioner(s)

Vs

1. The Registrar
Central Administrative Tribunal
Madras Bench High Court Building
Chennai -104

2. P.Ramasamy
Retd. OS-I/Dy.CMM/O/GOC
No.16, Kambar Street
Senthanneepuram
Trichy – 620 001

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the Tribunal in its impugned order dated 24.11.2022 in O.A.1333 of 2018 passed by the 1st respondent, Central Administrative Tribunal, Madras Bench and its batches and quash the same.

For Petitioner(s): Mr. M. Karthikeyan

For Respondent(s): R1 - Tribunal.
R2 – Mr.V.Stanly Rajasingh for M/s.G.Bala & Daisy

**ORDER**

**(Order of the Court was made by P.Velmurugan J.)**

This Writ Petition has been filed challenging the order dated 24.11.2022 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1333 of 2018, by which the Tribunal allowed the Original Application filed by the second respondent and directed the petitioners to revise his pension to Rs.9230/- with effect from 01.01.2006 together with arrears.

2. The case of the petitioners, as set out in the affidavit, is that the second respondent was holding the post of Office Superintendent Grade–I and retired from service on 30.09.1991 in the IV Central Pay Commission scale of Rs.2000–3200. The said scale was subsequently revised to Rs.6500–10500

under the V Central Pay Commission and thereafter placed in Pay Band–2 (Rs.9300–34800) with Grade Pay Rs.4200 under the VI Central Pay Commission, and his pension was accordingly fixed at Rs.8,145/- with effect from 01.01.2006. It is further stated that the higher post of Chief Office Superintendent, carrying the scale of Rs.7450–11500, was introduced only in the year 1998, long after the retirement of the second respondent, and was correspondingly placed in Pay Band–2 with Grade Pay Rs.4600 under the VI Central Pay Commission. Though, at a later point of time, the post of Office Superintendent Grade–I was merged with that of Chief Office Superintendent, such merger was effected only subsequent to the retirement of the second respondent. Therefore, it is the specific stand of the petitioners that the second respondent, having retired from the lower post, is not entitled to claim the benefit of the higher post or the corresponding higher Grade Pay of Rs.4600, which he never held during his service.

4. The second respondent had earlier approached the Tribunal and pursuant to directions issued therein, his claim was considered and rejected by order dated 05.03.2018. Challenging the same, he filed O.A.No.1333 of 2018 seeking revision of his pension to Rs.9230/-. During the pendency of the proceedings, based on the DoP&PW Office Memorandum dated 04.01.2019, his pension was revised to Rs.8345/- by taking into account Grade Pay Rs.4600

corresponding to the pre-revised scale of Rs.6500–10500. However, he continued to claim pension at Rs.9230/-.

5. The Tribunal, by placing reliance on various decisions relating to parity among pensioners, held that the second respondent is entitled to pension at Rs.9230/- and set aside the rejection order. Aggrieved by the same, the present writ petition has been filed.

6. The learned counsel for the petitioners would submit that the Tribunal has failed to appreciate the settled principle that pension must be determined with reference to the scale of pay held by the employee at the time of retirement. It is contended that the second respondent admittedly retired from the lower post and the higher scale was introduced only thereafter. Therefore, the Tribunal erred in treating him on par with those who retired from the higher scale. The learned counsel further relied upon the judgments of the Hon'ble Supreme Court in ***Union of India vs. S.R. Dhingra*** *[(2008 (1) SCC (LS) 926]* and ***Col. B.J. Akkara vs. Government of India*** *[Transfer Case (Civil No.72 of 2004, dated 10.10.2006],* to contend that pensioners retiring under different pay structures do not form a homogeneous class and cannot claim identical pension. It is also submitted that the applicable rules and DoP&PW instructions have been correctly followed and the fixation of pension at Rs.8345/- is proper and lawful.

7. Per contra, the learned counsel appearing for the second respondent would submit that the post held by the second respondent, namely Office Superintendent Grade–I, was subsequently merged with the post of Chief Office Superintendent carrying Grade Pay Rs.4600, and therefore, the benefit of such merger cannot be denied to him. It is contended that once the merger has taken place and both posts are treated as one cadre, the distinction between the two posts no longer survives for the purpose of pension fixation. It is also contended that pension is a right and not a concession, and any revision arising from subsequent changes in the pay structure ought to be extended to all eligible pensioners to ensure fairness. It is therefore submitted that the order passed by the Tribunal directing revision of pension to Rs.9230/- is justified and does not call for interference.

8. Heard the learned counsel on either side and perused the materials available on record.

9. It is an admitted fact that the second respondent retired from service on 30.09.1991 while holding the post of Office Superintendent Grade–I in the pay

scale of Rs.2000–3200. It is also not in dispute that the higher post of Chief Office Superintendent, carrying the pay scale of Rs.7450–11500, was introduced only in the year 1998, i.e., subsequent to the retirement of the second respondent, and that the merger of the said post with that of Office Superintendent Grade–I was effected only at a later point of time.

10. The claim of the second respondent is on account of the subsequent merger of posts and the placement of the merged post in the higher Grade Pay of Rs. 4600/-. The issue that arises for consideration is whether such subsequent developments can be extended to a person who had admittedly retired from the lower post prior to the introduction of the higher post as well as the merger.

11. It is a settled principle that pension is to be computed with reference to the post and scale of pay held by the employee at the time of retirement. The subsequent creation of a higher post or merger of posts, unless specifically made applicable, cannot automatically confer a right upon a retired employee to claim the benefit of a post which he never held during his service. At this juncture, it would be useful to refer to the law laid down by the Hon'ble Supreme Court in ***Union of India vs. S.R. Dhingra*** *[(2008 (1) SCC (LS) 926)],* wherein it has been held that when two sets of employees retire at different points of time, they cannot be treated as forming a homogeneous class merely

on the ground that they held similar posts, and one set cannot claim the benefit extended to another. Similarly, in ***Col. B.J. Akkara vs. Government of India [Transfer Case [****(Civil) No.72 of 2004, dated 10.10.2006]*, the Hon'ble Supreme Court has categorically held that pensioners retiring with the same rank do not constitute a single class for all purposes and that where the reckonable emoluments at the time of retirement differ, they cannot claim identical pension. For better appreciation, the relevant paragraph of the said judment is extracted hereunder:-

> *"But all retirees retiring with a particular rank do not form a single class for all purposes. Where the reckonable emoluments as on the date of retirement (for the purpose of computation of pension) are different in respect of two groups of pensioners, who retired with the same rank, the group getting lesser pension cannot contend that their pension should be identical with or equal to the pension received by the group whose reckonable emolument was higher. In other words, pensioners who retire with the same rank need not be given identical pension, where their average reckonable emoluments at the time of their retirement were different, in view of the difference in pay, or in view of different pay scales being in force".*

It is also seen that the pension of the second respondent has been revised in accordance with the applicable rules and the instructions issued by the competent authority, including the subsequent revision taking into account Grade Pay Rs.4600, and his pension has been fixed at Rs.8345/-, which is in consonance with the governing provisions. However, the Tribunal, while allowing the Original Application, has proceeded on the premise of parity without duly adverting to the settled legal position governing fixation of pension and the distinction between different classes of pensioners. Therefore, the impugned order cannot be sustained.




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12. In the result, the Writ Petition is allowed and the order dated 24.11.2022 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1333 of 2018 is set aside. Consequently, the claim of the second respondent for revision of pension to Rs.9,230/- stands rejected. No costs. Consequently, connected miscellaneous petitions are closed.

**(P.V.,J.) (K.G.T.,J.)**
**26-03-2026**

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To

1. The Registrar,
   Central Administrative Tribunal,
   Madras Bench High Court Building,
   Chennai -104.

2. The General Manager,
   Southern Railway,
   Park Town, Chennai -3.

3. The Chief Personnel Officer
   Union of India,
   Southern Railway
   Chennai – 3

4. Workshop Personnel Officer,
   Railway Workshop,
   Ponmalai,
   Chennai - 4.


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**P.VELMURUGAN, J.**
**AND**
**K.GOVINDARAJAN THILAKAVADI, J.**

KSA-2

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