

(2024) 07 CAT CK 0004

In the Central Administrative Tribunal

Case No : Original Application No. 051 Of 00430 Of 2024

Anil Kumar Mandal

APPELLANT

Vs

Union Of India Through General Manager, South Eastern
Railway, Office At Dumaryrie Area, North P.O. And P.S. -
Garden Rich, Kolkata, West Bengal, PIN 700043 & Ors.

RESPONDENT

Date of Decision : 08-07-2024

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2024) 07 CAT CK 0004

Hon'ble Judges : Ajay Pratap Singh, Member (J)

Bench : Single Bench

Advocate : M.M. Sharma, Rajendra Krishna

Final Decision : Disposed Of

Judgement

Ajay Pratap Singh, Member J

1. By way of present Original application under Section-19 of the Administrative Tribunals Act, 1985 applicant has sought following main reliefs (s) (as extracted from OA) which reads as under:-

“8.1 Your Lordships may graciously be pleased to allow the application of the Applicant and may pass necessary order /orders, direction/directions for the following reliefs:-

The applicant, who was initially appointed as Assistant Loco Pilot (Goods) in the year 2003, in pay scale of Rs. 3,050-4,590/- (RSRP on stipend + DA) as admissible and sent for training and after completion of training, he joined the post on 26.02.2004 and his basic pay was fixed at Rs. 3 ,125/- (as per 5th CPC) and thereafter, promoted to the post of Senior Assistant Loco Pilot (Goods) on 01.09.2008, and was granted PB-1 (Rs. 5,200- 20,200) with G.P 2 2400/- and fixed his basic pay at Rs. 9 ,330/- instead of Rs. 10,880/-, subsequently, promoted to the post of Loco Pilot (Goods) on 23.01.2013 in revised PB-II (Rs.

34 ,800/-) with G.P. Rs. 4200 /= and fix his basic pay at Rs. 13,500 instead of Rs. 14,790/-prays for following reliefs:-

a) For direction to the respondents to re-fix the basic pay of the applicant at Rs. 10,880/- w.e.f 01.09.2008 from which the applicant was promoted to the post of Senior Assistant Loco Pilot (Goods) in PB-1 (Rs. 5,200-20,,200) with G.P. 2400/- as per FTR/3 and also to re-fix the basic pay of the applicant at Rs. 14,790/- w.e.f. 23.01.2013 from which he was promoted to the post of Loco Pilot (Goods) in PB II (Rs. 9,300 34,800) with G.P. at Rs. 4200/- as per FTR/5 in view of the direction given in Letter vide R.B.E. No. 109 of 2008, dated 12.09.2008 issued under the signature of Joint director, Pay Commission II, Railway Board, which is only applicable to the running staff of the Indian Railway, who were appointed prior to 01.01.2006.

b) For further direction to make payment of arrears of difference of salary along with statutory interest applicable to the applicant in accordance with law.

2. Briefly stated facts in nutshell as adumbrated by the applicant in present OA that he was appointed as Trainee Assistant Driver (Diesel and Electric) in pay scale Rs. 3050-4590 RSRP on stipend and DA admissible vide appointment order dated 06.11.2003, completed training and joined on 26.02.2004 under Chakradharpur Division, South Eastern Railway, Basic pay on post of SLP fixed at @ Rs. 3125/- as per 5th CPC and granted promotion to the post of Senior ALP (Goods) on 01.09.2008 and given PB-1 Rs. 5200-20,200 with GP Rs. 2400, basic pay Rs. 9330. On promotion to LPG in PB II Rs. 9300-34800 with GP Rs. 4200, basic pay fixed at @ Rs. 13,500. The further case of applicant is that he is legally entitled for fixation of his basis pay Rs. 10,880/- instead of Rs. 9,330/- as per FTR-3, w.e.f 01.09.2008, i.e. date of promotion to Senior ALP (Goods) and then entitled for basic pay of Rs. 14,790/- instead of Rs. 13,500/- as per FTR-w.e.f 21.02.2013, i.e. date of promotion to LPG as per RBE No. 109 of 2008 dated 12.09.2008 (Annexure A-4), whereas erroneously fixed as per RBE No. 108 of 2008, 04.09.2008 which is not applicable to running cade staff. Applicant has filed representations dated 08.01.2021 (Annexure-), dated 1.03.2021 (Annexure A-7) but respondents are sitting tight over the matter and no response communicated till date. Hence, the applicant filed the present OA to refix his basis pay @ 10,880/- w.e.f. 01.09.2008 to the post of Sr. ALP in PB-I with GP 2400 as per FTR-3, refix basic @ Rs. 14,790/-w.e.f 23.01.2013 as LPG, PB-II with GP 4200 ss per FTR- in view of RBE No. 109 of 2008 as applicant is running staff appointed prior to 01.01.200. It is contended that respondents be directed to decide representation and pay arrears of difference of pay and allowances with statutory interest.

3. Sum and substance of case of applicant is that respondents erroneously carried out fixation of pay of applicant in accordance with RBE No. 108 of 2008, dated 04.09.2008, Railway Services (Revised Pay) Rules, 2008, w.e.f. 1.1.2006 as per 6th CPC pay scales, whereas it is not applicable to applicant's case as applicant is running category staff of India Railways. The applicant's pay has to

be fixed in view of fitment table as stipulated in para 3 of RBE No. 108 of 2008 dated 11.09.2008. So also clarified in RBE No. 172/2008 dated 11.11.2008 and RBE No. 158 of 2008 dated 12.10.2018.

4. So also much emphasized by the applicant that to rectify any anomaly – Sr. D.P.O., ECR, Dhanbad forwarded grievance of applicant to revise promotional pay according to entry pay as per FTR-Table of RSRP-2008 with all consequential benefits and till date no response. Applicant has filed representations dated 08.01.2021 (Annexure-6) and dated 1.03.2021 (Annexure-7) before the respondents/competent authority [DRM(P), Chakradharpur Division, Chakradharpur] which are still pending.

5. Shri M.M. Sharma, learned counsel for applicant's arguments can be summarized as under:-

(i) Applicant's pay was fixed in the pay band pursuant to RBE No. No. 103/2008, 04.09.2008 Rly. Services (Revised Pay) Rules w.e.f. 01.01.2006 as per 6th CPC pay scales, whereas said provisions are not applicable to running staff of Indian Railways

(ii) Railway Board issued Rly. Services (Revised Pay) Rules, 2008 schedules for Revised Scales of pay RBE No. 108 of 2008, 11.09.2008, wherein in para 3 specifically mentioned that fixation tables in respect of running staff issued separately.

(iii) Rly. Board issued RBE 109 of 2008, dt. 12.09.2008 for implementation of 6th CPC recommended for fixation of Running staff in revised pay structure as given in fitment table (FTR 1-7) in ach pre-revised scales of running staff.

(iv) Case of applicant is that pay of applicant was wrongly fixed as per RBE Nos. 103 of 2008 dated 04.09.2008 and 108 of 2008 dated 11.09.2008 which are not applicable in case of running staff, pay it ought to have been fixed as per RBE 109 of 2008, also clarified procedure of pay fixation of running staff (RBE Nos. 172 of 2008 and 11.11.2008)

(v) Applicant is running staff of Indian Railways, Chakradharpur Division, affected by wrong fixation of pay by respondents based on RBE No. 108 of 2008 dated 04.09.2008, whereas for correction of pay anomaly competent authority on 03.12.2022 forwarded for correction of pay anomalies in pay fixation of running staff as per fitment table of RSRP-2008 with consequential benefits and also 7th CPC with arrears.

(vi) Applicant was appointed as Trainee Assistant Driver (Diesel and Electric) in pay scale Rs. 3050-4590 RSRP on stipend and DA admissible vide appointment order dated 06.11.2003, completed training and joined on 26.02.2004 under Chakradharpur Division, South Eastern Railway, Basic pay on post of SLP fixed at @ Rs. 3125/- as per 5th CPC and granted promotion to the post of Senior ALP (Goods) on 01.09.2008 and given PB-1 Rs. 5200-20,200 with GP Rs. 2400, basic pay Rs. 9330. On promotion to LPG in PB II Rs. 9300-34800 with GP Rs. 4200,

basic pay fixed at @ Rs. 13,500. The further case of applicant is that he is legally entitled for fixation of his basis pay Rs. 10,880/- instead of Rs. 9,330/- as per FTR-3, w.e.f 01.09.2008, i.e. date of promotion to Senior ALP (Goods) and then entitled for basic pay of Rs. 14,790/- instead of Rs. 13,500/- as per FTR- w.e.f 21.02.2013, i.e. date of promotion to LPG as per RBE No. 109 of 2008 dated 12.09.2008 (Annexure A-4), whereas erroneously fixed as per RBE No. 108 of 2008, 04.09.2008 which is not applicable to running cade staff. Applicant has filed representations dated 08.01.2021 (Annexure-), dated 1.03.2021 (Annexure A-7) but respondents are sitting tight over the matter and no response communicated till date. Hence, the applicant filed the present OA to refix his basis pay @ 10,880/- w.e.f. 01.09.2008 to the post of Sr. ALP in PB-I with GP 2400 as per FTR-3, refix basic @ Rs. 14,790/- w.e.f 23.01.2013 as LPG, PB-II with GP 4200 ss per FTR- in view of RBE No. 109 of 2008 as applicant is running staff appointed prior to 01.01.200. It is contended that respondents be directed to decide representation and pay arrears of difference of pay and allowances with statutory interest.

6. Shri M.M. Sharma, learned counsel for applicant after arguing for some time submits that applicant would be satisfied if direction is issued to the respondents to decide the pending representations of the applicant dated 08.01.2021 (Annexure-6) and dated 1.03.2021 (Annexure-7) filed before DRM(P), SE Railway, Chakradharpur within a stipulated period.

7. Shri Rajendra Krishna, learned Sr. Central Government Standing Counsel fairly submits that the pending representations (Annexures - 6 & 7) filed by the applicant before the competent authority in the matter shall be decided in accordance with law.

8. Heard learned counsel for the parties on consent at admission stage itself.

9. In view of above submissions, without expressing any opinion on merit of the case, this Tribunal deem it fit and proper that principles of natural justice will be met and hereby directs that pending representations of the applicant dated 08.01.2021 (Annexure-6) and dated 1.03.2021 (Annexure-7) shall be taken into consideration by the competent authority/respondents and a decision be taken by passing a reasoned and speaking order, communicating the same at earliest within 90 days from production of a copy of this order/receipt of order passed today. If applicant is still aggrieved he is at liberty to approach this Tribunal.

10. In view whereof, present OA is disposed of at the admission stage itself with above directions and accordingly, OA stands disposed of. However, there shall be no order as to costs.