

(2018) 01 CAT CK 0063
In the Central Administrative Tribunal
Case No : Original Application No. 124 Of 2018

Manoj Kumar And Others

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 11-01-2018

Acts Referred:

Railway Services (Revised Pay) Rules, 2008 — Rule 7, 7(A)
Constitution Of India, 1950 — Article 14, 16, 39(d)

Citation : (2018) 01 CAT CK 0063

Hon'ble Judges : Permod Kohli, J; Praveen Mahajan, Member (A)

Bench : Division Bench

Advocate : Yogesh Sharma, R. V. Sinha, Shailendra Tiwary

Final Decision : Disposed Of

Judgement

Permod Kohli, J

1. The applicants in this OA were appointed to the posts of Staff Nurse prior to 01.01.2006 in Indian Railway. Their appointments were made between 1998 to 2005 as indicated in para 4.1 of the OA. The pay scales of Staff Nurses and Nursing Sisters in the Railway Department were revised on the recommendations of 6th CPC. The revised pay scales of staff nurses and nursing sisters and their pay scales prior to 6th CPC are as under:-

Post

Pay Scale prior to 6th CPC

Pay scale after 6th CPC

Staff Nurse

5000-8000

Pay Band 9300-34500+ Grade Pay 4600/-

Nursing Sister

5500-9000

Pay Band 9300-34500+ Grade Pay 4800/-

2. Pursuant to the recommendations of 6th CPC, Railways Services (Revised Pay) Rules, 2008 were notified. The minimum entry pay prescribed for direct recruits appointed on or after 01.01.2006 in Section II of Part A of the First Schedule of Railway Services (Revised Pay) Rules, 2008, for the posts of Pay Band 9300-34800 + Grade Pay 4600/-, is Rs.17140/-, and for the posts of Pay Band 9300-34500 + Grade Pay Rs.4800 is Rs.18,150/-.

3. It is stated that on one hand, minimum entry pay for Staff Nurses appointed on or after 01.01.2006 is prescribed as Rs.17,140/-whereas the Staff Nurses appointed as direct recruit in the same manner prior to 01.01.2006 like the applicants, their pay has been fixed as per rule 7 of Railway Services (Revised Pay) Rules, 2008, and in accordance with Fitment Table annexed with the rules by applying 1.86 formula as on 01.01.2006 ignoring the long service rendered by the applicants, and thus the pay of newly recruited persons on the same post is much higher than the applicants. The applicants have accordingly filed this OA seeking for the following reliefs:-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondent No.3 to issue necessary circular/order to remove the anomaly between the employees appointed prior to 1.1.2006 and after 1.1.2006 and to fix the pay of the railway employees w.e.f. 1.1.2006 at the level of minimum entry pay prescribed for Direct Recruitment in RS (RP) Rules, 2008.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to re-fix the pay of the applicants in Pay Band 9300-34500+Grade Pay 4600/- at the stage of Rs.17140/- w.e.f. 1.1.2006 with all the consequential benefits including the arrears of difference of pay and allowances with interest.

(iii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to re-fix the pay of the applicants with reference to the scale of Rs.7450-11500 as on 1.1.2006 and then fix in the PB-2+GP4600/-with all the consequential benefits including the arrears of difference of pay and allowances, as directed by the Hon'ble Delhi High Court in W.P. (C) No.8058/2015 titled Union of India & ors. Vs. Malbika Deb Gupta & Etc. vide order dated 4.11.2016.

(iv) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."

4. The applicants have relied upon the judgment dated 27.03.2015 passed by this Tribunal in OA No.98/2014 with OA No.107/2014 & OA No.111/2014. The relevant extract of the judgment is as under:-

"4. In the facts and circumstances of the case, we allow these OAs and declare that the discrimination in granting the pay scales to the directly recruited Staff Nurses prior to 01.01.2006 and after 01.01.2006 is in violation of Articles 14, 16 and 39 (d) of the Constitution of India. We, therefore, direct the Respondents to treat the applicants at par with the Direct Recruit Staff Nurses appointed after 01.01.2006 and grant the PB 2 scale of Rs.9300-34800 with the grade pay of Rs.4600 with effect from 01.01.2006 and fix their pay accordingly. The Applicants are also entitled for all consequential benefits including arrears of pay and allowances with up to date interest at rate applicable to GPF deposits. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs."

5. This judgment was challenged before the Hon'ble High Court of Delhi in WP (C) No.8058/2015. The said writ petition along-with bunch of petitions on the same subject was dismissed by Hon'ble High Court of Delhi vide judgment dated 04.11.2016 with the following observations/directions:-

"14. Resultantly, the writ petitions are dismissed with the observation that the petitioners will pay to the respondents the minimum computation under clause (i) to clause (A) to Rule 7 and then compute the minimum pay applicable with reference to the pay band plus grade pay applicable to the revised pay scales as mentioned in Section II of Part B of the First Schedule to the 2008 Rules. If the net resultant figure as per clause (ii) to Rule 7 A is higher, then the respondents would be entitled to benefit of sub-clause (ii) to Rule 7 Clause (A) of the 2008 Rules.

15. This order will be implemented within 2 months from the date on which a copy of the order is received by the petitioners."

A Review Application No.199/2017 filed there against also came to be dismissed vide order dated 17.05.2017. The said judgment has attained finality.

6. In Government of NCT of Delhi and Anr. vs. Somvir Rana (TGT ENG) & others, an SLP filed with Diary No.(s)23663/2017, the Hon'ble Supreme Court considering the question of finality of the judgments and denial of similar relief to others vide its order dated 01.09.2017 held as under:-

" Delay condoned.

We find that there are several matters in which the aggrieved employees have been going to the Tribunal, then to the High Court and thereafter those matters are brought before this Court at the instance of the Union of India/NCT of Delhi.

Once the question, in principle, has been settled, it is only appropriate on the part of the Government of India to issue a circular so that it will save the time of the Court and the Administrative Departments apart from avoiding unnecessary and avoidable expenditure.

The present situation is that the stepping up is available only to those who have

approached the Court. But since the issue has otherwise become final, we direct the Government of India to immediately look into the matter and issue appropriate orders for granting the pay scale so that people need not unnecessarily travel either to the Tribunal or the High Court or this Court.

With the above observations and directions, the special leave petitioners are dismissed."

7. It is not in dispute that the controversy involved in the present OA is squarely covered by the aforesaid judgment. This Application is accordingly allowed at the admission stage itself. The respondents are directed to fix the salary of the applicants at the entry level of Rs.17140/-w.e.f. 01.01.2006 and arrears be paid w.e.f. the date of filing of this Application within a period of three months from the date of receipt of certified copy of this order. All ancillary applications shall stand disposed of.