

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6647 OF 2003

K. BALARAMAN

... APPELLANT(S)

VERSUS

CHAIRMAN, RAILWAY BOARD & ORS.

... RESPONDENT(S)

J U D G M E N T

Dalveer Bhandari, J.

This appeal is directed against the judgment of the Division Bench of the High Court of Judicature at Madras dated 23rd April, 2002 in Writ Petition No.4956 of 1999 along with other connected petitions.

Brief facts which are necessary to dispose of this appeal are as under :

The appellant was working in Class 'C' with the respondent no.1 - Railway Board. The post of Stock Verifiers in the railways are to be filled from the category of Clerks Grade I, Selection Grade Clerks and Sub-heads from Class 'C'. Reply filed by the Railway Board before the Central Administrative Tribunal, Madras Bench while dealing with the "Promotion to and

confirmation to the rank of Stock Verifiers" mentioned as under :

"(1) Promotion of persons holding substantively posts of Clerks in the offices of the Financial Adviser and Chief Accounts Officers to the rank of Stock Verifiers will be on considerations on seniority and merit including fitness for outdoor work. In the case of Accounts Clerks promotion to the rank of Stock Verifiers will not be made unless they have passed the examination prescribed in Appendix-2. The condition of passing the examination prescribed in Appendix 2 by Accounts Clerks before they can be promoted to the rank of Stock Verifiers, may be relaxed, in special cases, under the sanction of the General Manager.

(6) No increments will be allowed to a Stock Verifier under he has passed the qualifying examination and failure at two consecutive examinations will entail reversion to his substantive post."(emphasis added).

The Fifth Pay Commission in reference to Stock Verifiers in para 83:243, has recommended as follows :

"..... It may not be possible to recommend pay scale higher than that of Accounts Assistants (i.e. Rs.1600-2660) for Stock Verifiers. The selection grade for Stock Verifiers which was available prior to IV C.P.C. may be reviewed as a second grade for Stock Verifiers. This pay scale is proposed to be Rs1640-2900 in the present terms. This will motivate Stock Verifiers to continue in their line and not tempted to Accounts/Section Officers stream.

In the course of recommendation, the

Fifth Pay Commission took note of the demand made by the Stock Verifiers for higher pay scales than that of Accounts Assistants and an incentive on acquiring graduate diploma. The Commission also noted the fact that Stock Verifiers selected were given the benefit of pay fixation under F.R. 22 (C) and two additional increments for passing the qualifying Appendix 4 IREM examination. After the Pay Commission's recommendation, the pay scales of the erstwhile sub-heads (now Accounts Assistants) and Stock Verifiers became identical as Rs.1400-2600. It was also noted that despite the incentives of three advance increments for Stock Verifiers, Zonal Railways are facing difficulties in filling up these posts and the Ministry had supported the demand for higher pay scales for Stock Verifiers."

The Stock Verifiers were given incentives on passing the examination. The appellant passed the examination and was also given three advance increments.

The respondent-Board in its communication dated 25.07.1995 has categorically stated that three advance increments granted to the Stock Verifiers in the grade of Rs.1400-2600 for passing the examination may be treated as additional increment and cannot be treated as part of the basic pay.

In this appeal, however, the impugned communication of 08.05.1996 came to be issued wherein it was ordered that additional increment will not be treated

as part of basic pay and not to be reckoned for calculating the Dearness Allowance. Against the said communication, the appellant approached the Central Administrative Tribunal by filing an Original Application. The Central Administrative Tribunal, Madras Bench in O.A.No.776/1996 has mentioned that the additional increment will be forming part of the basic pay of the individual and the appellant would be entitled to the consequential benefits. The respondent-Chairman, Railway Board preferred a Writ Petition before the Division Bench of the Madras High Court against the said judgment of the Central Administrative Tribunal. In the impugned judgment, the High Court has clearly observed that :

“.....that the increments cannot be treated as part of the basic pay, but only as a separate element which will not count for the purpose of calculating the D.A. etc.”

The stand of the respondent-Railway Board has been consistent that the advance increment granted to the appellant would not be counted for basic pay, DA and pensionary benefits.

The Central Administrative Tribunal erroneously held that three additional increments will form part of the basic pay. In our considered view, the High Court was fully justified in setting aside the judgment of the

Central Administrative Tribunal. In this view of the matter, we find no infirmity in the impugned judgment of the Division Bench of the High Court on merits. This appeal, being devoid of any merit is, accordingly, dismissed, leaving the parties to bear their own costs.

.....J.
(DALVEER BHANDARI)

.....J.
(DEEPAK VERMA)

NEW DELHI;
14TH DECEMBER, 2010



JUDGMENT