

K. BALARAMAN

v.

CHAIRMAN, RAILWAY BOARD AND ORS.

(Civil Appeal No.6647 of 2003)

DECEMBER 14, 2010

[DALVEER BHANDARI AND DEEPAK VERMA, JJ.]

Service Law: Increments – Non-inclusion of, in the basic pay – Promotion and confirmation to the rank of Stock Verifiers in Railways – Stock Verifiers given incentives on passing the prescribed examination – Appellant passed such examination and given three increments – Held: The additional increments cannot be treated a part of the basic pay but only as a separate element which will not count for the purpose of calculating DA etc.

The Stock Verifiers in the Railways were given incentives on passing the prescribed examination. The appellant passed such examination and was also given three advance increments. The respondent-Board in its communication dated 25.07.1995 categorically stated that three advance increments granted to the Stock Verifiers for passing the examination may be treated as additional increment and cannot be treated as part of the basic pay. Another communication was issued on 08.05.1996 wherein it was ordered that additional increment will not be treated as part of basic pay and will not be reckoned for calculating the Dearness Allowance. Against the said communication, the appellant filed original application before the Tribunal. The Tribunal held 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 High Court, however, held that the increments cannot be treated as part of the basic

A pay, but only as a separate element which will not count for the purpose of calculating the D.A. etc.. The instant appeal was filed challenging the order of the High Court.

Dismissing the appeal, the Court

B HELD: The Tribunal erroneously held that three additional increments will form part of the basic pay. The High Court was fully justified in setting aside the judgment of the Tribunal. [Para 9] [1047-C-D]

C CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6647 of 2003.

From the Judgment and Order dated 23.04.2002 of the High Court of Judicature at Madras in Writ Petition No. 4956 of 1999.

D A.T.M. Sampath and T.S. Shanti for the Appellant.

A. Mariarputham, Ch. Shamsuddin Khan and A.K. Sharma (for Anil Katiyar) for the Respondents.

E The Judgment of the Court was delivered by

F DALVEER BHANDARI, J. 1. 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.

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

G 3. 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

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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).

4. 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

A 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
B 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
C 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."

D 5. The Stock Verifiers were given incentives on passing
the examination. The appellant passed the examination and
was also given three advance increments.

E 6. 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.

F 7. 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
G 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
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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."

8. 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.

9. 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.

B.B.B.

Appeal dismissed.