

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 6371 OF 2011

UNION OF INDIA & ANR.

...APPELLANT(S)

VS.

AKILA SRIKUMAR

...RESPONDENT(S)

O R D E R

1. The present appeal is preferred against the decision of the High Court of Judicature at Madras passed in Writ Petition No. 6667 of 2008 dated 06.10.2009.

2. The respondent sought transfer from the post of a senior clerk (in scale of Rs. 4500-7000) to that of a junior clerk (in scale of Rs. 3050-4590) from the Railway Establishments Mumbai to its establishment in Chennai Division on her own request. The respondent filed a Original Application in 2007 before the Central Administrative Tribunal seeking pay protection as she was receiving salary Rs. 5,000/- in the scale of Rs. 4500-7000 at the time of transfer.

3. The Original Application was dismissed by the Central Administrative Tribunal on 25.01.2008. The Writ Petition filed by the respondent, the High Court allowed the Writ Petition by the order impugned before us. The relevant portion of the order is as under:

"11. Rule 1313 of the above said Manual deals with fixation of initial substantive pay and the Railway Ministry's order under this Rule III(3) contemplates that when appointment to a new post is made on transfer at his written request under Rule 227 (a) (2) (FR-15-A(2) and 9 maximum pay in the time scale of the post is less than maximum initial pay and there is no quarrel in the above said settled provision on law. It is ascertained by the learned counsel for the petitioner that as on the date of transfer from Mumbai, Division, western Railways to Chennai, Division, Southern Railways, she is drawing Rs. 5,000/- per month, The respondents, instead of fixing the above said pay, fixed the maximum scale of pay of Junior clerk, which is contrary to the above said provisions of law cited above.

12. Therefore, considering the facts and circumstances of the above case, we are of the considered opinion that the respondents 1 and 2 committed illegality in not protecting the pay scale drawn by the petitioner in the higher post and fixing maximum scale of pay in the lower post of Junior clerk, which is contrary to law. Therefore, the order passed by the Tribunal is liable to be set aside and it is, accordingly, set aside, the writ petition is allowed. However, there will be no order as to costs."

4. We have heard Mr. Raman Yadav, learned counsel appearing for the Union of India and Mr. Romy Chacko, learned senior counsel appearing for the respondent.

5. Having heard the matter in detail, we are in agreement with the conclusions drawn by the High Court. However, we consider it necessary to clarify the position that amount drawn by the respondent in the higher post of senior clerk, which is the maximum in the lower post of junior clerk, being Rs. 4,590/- will be treated as her personal pay. We also clarify that the fixation of the salary will have no bearing on the seniority of the respondent.

6. With these clarifications, the Civil Appeal is disposed of.
7. Pending application(s), if any, shall stand disposed of.

.....J.  
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.  
[SANDEEP MEHTA]

NEW DELHI;  
OCTOBER 23, 2024

ITEM NO.106

COURT NO.14

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6371/2011

UNION OF INDIA & ANR.

Appellant(s)

VERSUS

AKILA SRIKUMAR

Respondent(s)

Date : 23-10-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Appellant(s) Mr. Vikramjit Banerjee, A.S.G. (NP)  
Mr. Amrish Kumar, AOR  
Mr. Praneet Pranav, Adv.  
Mr. Sarthak Karol, Adv.  
Mr. Raman Yadav, Adv.  
Mr. Brijesh Yadav, Adv.

For Respondent(s) Mr. Romy Chacko, Sr. Adv.  
Mr. Sachin Singh Dalal, Adv.  
Mr Rahul Jain, AOR

UPON hearing the counsel the Court made the following  
O R D E R

1. The Civil Appeal is disposed of in terms of the Signed Order.
2. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)  
COURT MASTER (SH)

(NIDHI WASON)  
COURT MASTER (NSH)

(Signed Order is placed on the file)