

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00502/2016

Tuesday, this the 7th day of January, 2020

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

1. P.R. Manikandan, aged 38 years, S/o. Ramachandran, Track Maintainer IV, SSE/P.Way/TCR, Trivandrum Division, Southern Railway, Residing at Pooparambil, Padinjarethil House, Mullakkara, Vadakkanchery, Trichur.
2. Prasad P.P., Aged 36 years, S/o. Parameswaran, Track Maintainer IV, SSE/P.Way/TCR, Trivandrum Division, Southern Railway, Residing at Pulinchiravalappil, Chelakkara, Vengallur Post, Trichur.
3. M.M. Ibrahim, aged 27 years, S/o. M.K. Mohammed, Track Maintainer IV, SSE/P.Way/TCR, Trivandrum Division, Southern Railway, Residing at Mannuvattathu House, Cheruthuruty Post.
4. Vijesh P.V., aged 31 years, S/o. Viswambaran, Track Maintainer IV, SSE/P.Way/TCR, Trivandrum Division, Southern Railway, Residing at Parakkunath House, Irunilamkode PO, Mulloorkara, Trichur.
5. Mohandas V., aged 31 years, S/o. Velayudhan, Track Maintainer IV, SSE/P.Way/TCR, Trivandrum Division, Southern Railway, Residing at Marathvalappil, Enkkad Post, Vadakkancherry, Trichur.
6. P.C. Pradeep Kumaer, aged 29 years, S/o. P.P. Sankaran, Track Maintainer IV, SSE/P.Way/TCR, Trivandrum Division, Southern Railway, Residing at Parala House, Vettikkattiri Post, Cheruthuruthy, Trichur. **Applicants**

(By Advocate : M/s. Varkey & Martin)

V e r s u s

1. Union of India, represented by the Secretary, Govt. of India, Ministry of Railways, Rail Bhavan, New Delhi – 110 001.
2. The General Manager, South Railway, Park Town, Chennai – 600 003.

3. The Senior Divisional Personnel Officer, South Railway,
Trivandrum Division, Trivandrum – 14. **Respondents**

(By Advocate : Mr. Thomas Mathew Nellimoottil)

This application having been heard on 01.01.2020 the Tribunal on 07.01.2020 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicants are as under:

“I) Call for the records leading to the issuance of Annexure A4 to A9 and quash the same.

II) Declare that the applicants are eligible to continue as Track Maintainer-IV in PB-1 Rs. 5200-20200 with GP Rs. 1800 as if Annexure A4 to A9 not in existence and direct the respondents accordingly.

III) Pass such other orders or directions as deemed fit.”

2. The brief facts of the case are that the applicants are working as Track Maintainer-IV under Trivandrum Division of Southern Railway. They were initially appointed in the years 2012 and 2013 and were granted regular pay band and Grade Pay attached to the post on the basis of having the educational qualification of matriculation from the Board of Secondary Education, Madhya Bharat, Gwalior. However, they received show cause notices proposing to cancel their regular appointment as Temporary Track Maintainer-IV in PB-1 Rs. 5,200-20,200/- with Grade Pay of Rs. 1,800/- and to treat the service as Trainee Track Maintainer in PB-IS Rs. 4,440-7,440/- without Grade Pay. It was also proposed to recover the overpayment for the period the applicants were placed in Grade pay of Rs. 1,800/- in PB-1. This was done on the basis of the Railway Board RBE No. 118 of 2013

(Annexure A3) dated 18.11.2013 by which the qualifications obtained by the applicants from Board of Secondary Education, Madhya Bharat, Gwalior was not recognized for the purpose of employment in Railways. The applicants submitted that the decision in Annexure A3 can only have prospective application and the action of the respondents treating Annexure A3 retrospectively, caused substantial prejudice and hardship to the applicants. The applicants filed representations against the same but the respondent No. 3 cancelled the appointment of the applicants vide Annexures A4 to A9. Feeling aggrieved the applicants have filed the present OA.

3. Notices were issued to the respondents. They entered appearance through Shri Thomas Mathew Nellimoottil who filed a reply statement contending that the applicants were initially appointed as Trainee Trackman (except applicant No. 4) in Pay Band Rs. 4,400-7,440/- without Grade Pay. At the time of joining service, all the applicants submitted 10th equivalent certificate issued by the Board of Secondary Education, Madhya Bharat, Gwalior, Madhya Pradesh in support of their educational qualifications. On the basis of the same they were placed in the regular Pay Band of PB-1 Rs. 5,200-20,200/- with Grade Pay of Rs. 1,800/- subject to verification of their certificates issued by the Board of Secondary Education, Madhya Bharat, Gwalior, Madhya Pradesh. On verification, it was found that the certificates issued by the Board of Secondary Education, Madhya Bharat, Gwalior, Madhya Pradesh are not recognized. As such in terms of Annexure A3 all the applicants were issued show cause notice. In the reply of the applicants

the applicants have not established that the certificates issued by the Board of Secondary Education, Madhya Bharat, Gwalior was recognized by the DoPT, the nodal agency to issue recognition to the educational institutions. Accordingly, the regular appointment of all the applicants as Temporary Track Maintainer-IV in PB-1 with Grade Pay of Rs. 1,800/- was cancelled vide Annexures A4 to A9. The respondents submitted that the Ministry of Human Resources Development by OM dated 7.9.2011 and DoPT vide OM dated 6.3.2013 clarified that Board of Secondary Education, Madhya Bharath, Gwalior, MP is not a member of Council of Boards of Schools Education in India and hence, the certificates issued by the institution is not acceptable for the purpose of Government employment. The averment of the applicants that the Railway Board's instructions should be prospective in nature does not hold good as it is issued de-recognizing the institution recognized till now. Respondents pray for dismissing the OA.

4. Heard Shri Martin G. Thottan, learned counsel appearing for the applicants and Shri Thomas Mathew Nellimoottil, learned counsel appearing for the respondents. Perused the record.

5. The question raised by the applicants in the present OA is that whether their reversion to the post of Trainee Track Maintainer without Grade Pay is wrong or not ?

6. The applicants have obtained their matriculation equivalent certificates from the Board of Secondary Education, Madhya Bharat,

Gwalior, Madhya Pradesh and as per which they were placed in the regular Pay Band of PB-1 Rs. 5,200-20,200/- with Grade Pay of Rs. 1,800/- subject to verification of their certificates. On verification it was found that their matriculation equivalent certificates are not from a recognized Board by the Government. Thus, after issuance of show cause notice they have been posted as Trainee Track Maintainer in PB-IS Rs. 4,440-7,440/- without any Grade Pay. This decision has been questioned by the applicants stating that they were not aware of the fact that the Board of Secondary Education, Madhya Bharat, Gwalior, Madhya Pradesh is not a recognized Board.

7. Further the Department only in November, 2013 has stated that the said matriculation equivalent certificates are not acceptable by giving Annexure A3 a retrospective effect. As per the applicants it is not permissible as Annexure A3 is issued after the joining of the applicants in 2012 and 2013 and the said Annexure A3 should have been given a prospective effect only. Therefore, the applicants should not have been reverted.

8. The respondents maintained that the applicants were given regular scale on the basis of the matriculation equivalent certificates produced by them which were later found to be issued by an unrecognized Board. The appointment on the basis of a matriculation equivalent certificate issued by an unrecognized Board is liable to be taken away as the very basis of grant of regular pay scale to the applicant was the said certificate which is issued by an un-recognized Board. Therefore, there is no question of any

prospective application of Annexure A3. The decision is taken by the respondents only after due verification of the certificates by the Ministry of Human Resources & Development. Thus, the decision of the respondents is just and proper in taking away the benefit which was acquired by the applicants on the basis of a certificate from an un-recognized Board.

9. In view of the above we find no merit in the Original Application and the same is liable to be dismissed. Accordingly, the OA is dismissed. There shall be no order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

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APPLICANTS' ANNEXURES

- Annexure A1** - True copy of the letter No. V/P 524/I/PWAY/TCR/FIXATION dated 21.9.2015.
- Annexure A2** - True copy of the objection dated 5.10.2015 submitted by the 1st applicant.
- Annexure A3** - Railway Board order No. 118 of 2013 communicated by PBC No. 145 of 2013 dated 18.11.2013.
- Annexure A4** - True copy of the office order bearing No. V/P 524/I/P.Way/TCR/Fixation dated 12.4.2016 issued on behalf of the third respondent to the first applicant.
- Annexure A5** - True copy of the office order bearing No. V/P 524/I/P.Way/TCR/Fixation dated 12.4.2016 issued on behalf of the third respondent to the second applicant.
- Annexure A6** - True copy of the office order bearing No. V/P 524/I/P.Way/TCR/Fixation dated 12.4.2016 issued on behalf of the third respondent to the third applicant.
- Annexure A7** - True copy of the office order bearing No. V/P 524/I/P.Way/TCR/Fixation dated 12.4.2016 issued on behalf of the third respondent to the 4th applicant.
- Annexure A8** - True copy of the office order bearing No. V/P 524/I/P.Way/TCR/Fixation dated 12.4.2016 issued on behalf of the third respondent to the 5th applicant.
- Annexure A9** - True copy of the office order bearing No. V/P 524/I/P.Way/TCR/Fixation dated 12.4.2016 issued on behalf of the third respondent to the 6th applicant.

RESPONDENTS' ANNEXURES

Annexure R1 - Public Notice issued by Ministry of Human resource Development dated 29.10.2013.

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