

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**LIBRARY**

No. O.A. 350/01221/2019

Date of order: 9.12.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
 Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. O.A. No. 350/01221/2019	<i>Arun Chowdhury</i>
2. O.A. No. 350/01222/2019	<i>Durga Dey</i>
3. O.A. No. 350/01223/2019	<i>S.R. Paul</i>
4. O.A. No. 350/01228/2019	<i>Nirmal Sahoo</i>
5. O.A. No. 350/01229/2019	<i>B.B. Sahoo</i>
6. O.A. No. 350/01230/2019	<i>Sunil Dutta</i>
7. O.A. No. 350/01233/2019	<i>Kamdeb Yadab</i>
8. O.A. No. 350/01234/2019	<i>Jiten Bhadra</i>
9. O.A. No. 350/01235/2019	<i>Amalendu Dey</i>
10. O.A. No. 350/01236/2019	<i>S.N. Pradhan</i>
11. O.A. No. 350/01551/2019	<i>Laxmi Narayan Dutta</i>
12. O.A. No. 350/01552/2019	<i>Kalpana Mishra</i>
13. O.A. No. 350/01553/2019	<i>Bankim Senapati</i>
14. O.A. No. 350/01554/2019	<i>Antarjami Bhadra</i>

**VERUS -****UNION OF INDIA & ORS. (S.E. RAILWAY)**

For the Applicant : Mr. G.K. Das, Counsel
 Mr. T.K. Biswas, Counsel

For the Respondents : Ms. G. Roy, Counsel
 (for O.A. Nos. 1221/2019, 1228/2019,
 1223/2019, 1234/2019, 1229/2019)

Mr. R.K. Sharma, Counsel
 (for O.A. Nos. 1230/2019, 1233/2019,
 1235/2019, 1236/2019, 1222/2019,
 1554/2019, 1553/2019, 1552/2019,
 1551/2019)

O R D E R (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicants have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(A) The respondents are directed to re-fixation of his Scale of pay at par with the 5th CPC, 6th CPC and 7th CPC since from 1986 till the date of superannuation of your applicant (i.e. 30/04/2018 as (Annexure A-10) with all incidental and consequential benefits upon re-fixation of monthly pension at revised rates with arrears as aforesaid at par with that of other regular/permanent employees of the Railway under similarly situated like Badal Das & ors. as aforesaid and to pay and/or extend to the applicant all arrear Service Gratuity, Leave Salary, GIS, Railway Health Scheme, Commutation Value of Pension (after re-fixation of pension) with other emoluments and/or benefits of two sets of Complimentary Pass with immediate effect;

(B) Costs;

(C) Any other or further order or orders to which the applicant may be found entitled to this Learned Tribunal."

2. As the facts involved as well as points of law advanced in support are same, these matters are taken up for adjudication through a common order.

3. Ld. Counsel for both sides are present and heard. Examined documents on record. These matters are taken up at the admission stage for disposal.

4. The submissions of the applicants, as made through their Ld. Counsel is that, the applicants were absorbed and regularized in permanent service of the Railway authorities. In compliance to Hon'ble Apex Court's judgment Writ Petition (Civil) No. 196 of 1995, the Railway Board, vide their orders dated 18.5.90 and 19.11.90 respectively, had extended the benefits for implementation of the Hon'ble Apex Court's judgment to the Canteen employees for extension of Pension as well as SRPF benefits w.e.f. 1.1.1986 after taking into account the qualifying service since 22.10.1980 and 1.4.1990 for pensionary benefits and post retirement complimentary passes. The Railway Board vide its Estt. Slr.

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No. 8/2006, RBE No. 169/2005 and also its Circular dated 17.1.2006, further clarified that the entire period of past service of Canteen employees would be considered as qualifying service.

The applicants are aggrieved because they have been illegally and arbitrarily denied refixation of pay scale as per the 5th, 6th and 7th Central CPC as well as consequent refixation of pension with service gratuity, GIS, leave salary, two sets of complimentary passes and all such benefits as extended to the applicants in WPCT No. 28 of 2011 (**Badal Das & ors. v. Union of India & ors.**) subsequently affirmed by the Hon'ble Apex Court's order dated 14.11.2017 in SLP No. 25019/2013.

Ld. Counsel for the applicants would further agitate that the applicants have preferred detailed representations at (Annexure A-9, A-10 & A-11 of their respective O.A.s) praying for consideration of their qualifying service since their initial date of engagement as Commission Vendors, and, that, as such representations have remained pending, the applicants would be fairly satisfied if the concerned respondent authority No. 2, who is the General Manager, S.E. Railway, Garden Reach, Kolkata, be directed to dispose of the said representation in a time bound manner.

Ld. Counsel would also furnish before us a speaking order dated 16.10.2019 of the S.E. Railways issued in compliance to this Tribunal's orders in O.A. No. 809 of 2019 (G.P. Bej vs. UOI & ors.), 813 of 2019 (Arati Dutta vs. UOI & ors.), 814/2019 (Sunil Dey vs. UOI & ors.) and in 476/2019 (Puma Chowdhury vs. UOI & ors.) wherein it has been stated that the matter on refixation involves a policy decision and hence the matter has been referred to the Ministry of Finance and views are awaited therefrom.

5. Ld. Counsel for the respondents would submit that the matter is pending policy decision at the level of the Ministry of Finance and,

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accordingly, any reference made to qualifying service would await a final decision from their end. Ld. Counsel, however, does not object to disposal of the representations by the competent respondent authority.

6. Accordingly, without entering into the merits of the matter, and, considering the fact that the representations remains pending at the level of the concerned respondent authority, we direct the respondent No. 2, General Manager, Garden Reach, Kolkata, to refer these representations, if received at his end, for policy decision to the appropriate authorities as per action taken in O.A. No. 809 of 2019, O.A. No. 813 of 2019 and O.A. 814 of 2019 respectively within a period of 8 weeks from the date of receipt of a copy of this order.

Once a policy decision is arrived at, the respondent authorities shall communicate their decision to the applicants forthwith, and, in case of a favourable decision, consequent benefits may be released to the applicant within a further period of 16 weeks thereafter.

With these directions, each of these O.A.s are disposed of. There will be no orders as to costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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