



**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA No. 364/2020**

New Delhi, this the 07<sup>th</sup> day of February, 2020

**HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER (J)  
HON'BLE MR. PRADEEP KUMAR, MEMBER (A)**

1. Madan Gopal s/o Lt. Shri Radhey Shayam, Chief Commercial Supervisor, Grp C, Aged about 45 years, R/o House no.-99, Mohala-Bonjha, near New Bustand, Ghaziabad, UP 201001. ...Applicant

(By Advocate : Shri B C Nagar )

**Versus**

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Division Railway Manager, DRM's Office, State Entry Road, New Delhi. ...Respondents

(By Advocate: Shri Krishna Kant Sharma)

**ORDER (ORAL)**

**Hon'ble Mr. Pradeep Kumar, Member (A):**

- 1.0. The applicant herein was appointed on compassionate ground as a Commercial Clerk on 15.05.1995. This appointment was contingent upon the



applicant passing a Training course known as T-7 course.

The applicant had already taken training in this course at Zonal Training School, Chandausi, from 1.2.95 to 12.5.95.

However, the result of the said training was still not declared and thus the appointment was made provisional subject to the result being declared and his passing the same.

When the result of said training was declared, it was seen that applicant had not passed the said training and he was asked to appear in one of the supplementary exam. The applicant was sent to training again and he wrote the said supplementary exam. Unfortunately, he failed the said supplementary test in the year 1996. However, somehow he continued in the service and continued to earn increments also and when this came to light, he was discharged from service vide letter dated 30.4.1998.

2.0. Subsequently, the applicant again went to attend the same training and being declared successful, he was again appointed as Commercial Clerk on 14.12.1998, fixing his salary at the minimum of the relevant pay scale.



Applicant felt aggrieved and filed this OA, seeking the

three increments which he earned earlier and which were not granted to him when he was re-appointed on 14.12.98.

3.0. Applicant takes reliance from Rule 602 Indian Railway Establishment Manual Volume II. The same is reproduced below :-

“602. In the case of retrenched persons who may have previously served in a Government office/department in authorized scales which are identical to those in which they may be re-appointed on a railway, the fixation of pay should be regulated under the provisions of rule 1313 (a) (ii) {F.R.22(a) 9ii} of the Indian Railway Establishment Code, Volume II i.e. they should be allowed, on re-appointment, the period during which they drew pay in such scale being allowed to count for increments in the railway posts.”

4.0. Matter has been heard at admission stage. Shri B.C. Nagar, learned counsel represented the applicant and Shri Krishna Kant Sharma, learned counsel represented the respondents.

5.0. The initial appointment of the applicant on 15.05.1995 was a conditional appointment which was contingent upon the applicant being declared successful in the relevant training course known as T-7 which he had already attended but result was awaited. Since the applicant could not pass the said exam, he was given another opportunity to write the supplementary exam. However,



unfortunately, he still failed in the supplementary exam and his services were terminated though with some delay.

Considering that his initial appointment was on compassionate ground he was once again sent on training and this time, he passed the said examination and was re-appointed on 14.12.98, fixing his pay at the minimum.

6.0. Applicant's plead that his past three years service should be counted for the purpose of increments at reappointment stage, is without any basis. The earlier appointment was provisional and subject to his passing the said training course A-7. He did not pass it, despite two attempts. Hence, the termination of appointment was the only logical corollary.

The reliance on rule 602 of IREM (para 3.0 supra), is totally misplaced. This rule is for those whose earlier appointment is after fulfilling all required conditions and if they are retrenched and if they are reappointed thereafter, they are given benefit of past service. This rule is clearly not applicable in instant case as the earlier appointment in instant case came to be terminated as attendant and necessary condition was not fulfilled by applicant. Thus, the

new appointment gets the status of an entirely new beginning & totally detached from the earlier appointment.



7.0 Accordingly, the OA is dismissed at admission stage itself, being devoid of merit. No costs.

**(Pradeep Kumar)**  
**Member (A)**

Sarita

**(Justice Vijay Lakshmi)**  
**Member (J)**