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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2448/2001

New Delhi, this the 2nd day of April, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

1. Shri G.D.Sharma
S/o Shri R.R.Sharma
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
2. Smt. Sharda Kumar
W/o Shri Prem Prakash Kumar
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
3. Prakash Chand
S/o Shri Dhani Ram
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
4. Smt. Teresa Minz
W/o Libin Minz
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
5. Smt. Azadwanti Honda
W/o Shri Rajinder Singh
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
6. Shri L.S.Rawat
S/o Shri Jit Singh Rawat
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
7. Shri Dalip Singh
S/o Shri Kesar Singh
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.
8. Shri Gubind Singh
S/o Shri M.S.Rawat
Head Clerk
Stores Branch
Northern Railway H.Q.
Baroda House, New Delhi.

(By Advocate Shri B.S.Mainee)

...Applicants

V E R S U S

UNION OF INDIA : THROUGH

1. The Secretary
Ministry of Railways
Rail Bhawan
New Delhi.
2. The General Manager
Northern Railway
Baroda House
New Delhi.

(By Advocate Shri Rajender Khatter)

...Respondents

O R D E R

By Hon'ble Shri Govindan S.Tampi.

Shri G.D.Sharma and seven other applicants have challenged Order No.89/P/Pass/MIS/2000 dated 14-8-2001, passed by General Manager (P), Northern Railway, New Delhi, whereby, entitlement to the facility of First Class Passes, they were enjoying for a few years, has been withdrawn.

2. Heard S/Shri B.S.Mainee and Rajender Khatter, Id. counsel for the applicant and the respondents respectively.

3. The applicants had all been recruited between 1973 and 82 and are working presently as Head Clerks/Sr. Clerks with the Northern Railway. They were originally appointed to the Directorate General of Supplies and Disposal (DGS&D) and transferred thereafter in March 1992 to the Railways, consequent on the transfer of certain purchase functions from DGS&D to the other Ministries. Railway Board by their order dated 18-10-1994 absorbed all the applicants and granted them seniority on the basis of their date of regular promotion/appointment in DGS&D in the relevant grade. Following the introduction of the revised pay

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scales w.e.f. 1-1-1996, the entitlement of the classes of the passes of the employees, was fixed on 8-11-1999, as below :-

- (i) Group "A" and Group "B" Gazetted I Class "A"
- (ii) Non-gazetted Group "B" and I Class
Group "C" employees
- (A) Appointed prior to 1-8-1969
 - (i) Drawing pay of Rs.5000/- I Class
or above provided the
employees are in a scale
the maximum of which is
Rs.6000/- or above
 - (ii) Employees other than those II Sleeper
covered under item (i) above class
- (B) Appointed during the period
from 1-8-1969 to 31-3-1987 :
 - (i) Drawing pay of Rs. 5375/- I Class
or above provided they are
in a scale, the maximum of
which is Rs. 7,000/- or
above
 - (ii) Employees other than those II-class
covered in item (i) above
- (C) Appointed during period from
1-4-1987 to 1-2-1999 :
 - (i) Drawing pay of Rs.7250/- or
above, provided those who are in
a scale, the minimum of which is
Rs. 6500/-
 - (ii) Employees other than those II Sleeper
covered in item (i) above class

The applicants fell in category "B" above and were drawing the pay of Rs. 5,375/- and above were permitted to have the benefit of first class passes. This was in tune with their transfer and absorption on administrative interest and it continue quite some time. Suddenly, by the impugned order dated 14-8-2001, Northern Railway, on the basis of Railway Board's Circular letter dated 2-8-2001, has withdrawn the above facility, hence this OA.

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4. The grounds raised by the applicants are that :-

(i) their transfer from DGS&D and absorption in the Railways was on administrative grounds, they should be entitled for all the benefits from the date of their initial appointment ;

(ii) As their date of initial appointment in DGS&D has been treated as their date of appointment for all purposes, a different yardsticks cannot be adopted only for the issuance of passes ;

(iii) the entitlement to passes is related to the status and the pay scale of the employees and the same cannot be denied to them alone, merely because they came on transfer from another organisation, but were absorbed on administrative grounds ;

(iv) the implementation of the above orders would lead to the absurd situation, in which, they would be denied the benefit of first class passes, which would be available to UDCs in Railways, who are the juniors and

(v) the impugned order is mis-conceived, arbitrary and illegal and is taking away the rights which they were enjoying for a number of years ;

5. During the oral submissions, Shri B.S.Maine, ld. counsel for the applicants fervently reiterated the above pleas and stated that the expression "appointment" cannot be limited by in any manner by adding the expression "appointment in

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Railways", which the respondents were attempting to do. He also relied upon the decisions in the cases of Color Chemical Ltd. Vs. A.L. Alaspurkar (SLJ 1998 (2) SC 87), Chandigarh Admn. Vs. Sumesh Kumar (SLJ 1997 (1) SC 83) and Bhagwan Shukla Vs. UOI & Ors. (SLJ 1995 (2) SC 30), all of which according to him, supported his case. Shri Mainee, therefore, pleads that the OA be allowed with full relief to the applicants.

6. Respondents, in their written submissions as well as during the hearing through their ld. counsel Shri Rajender Khatter, stoutly defend their case and oppose the pleas made by the applicants. According to them, the applicants are those, who have been taken over and absorbed in Northern Railway, having been rendered surplus in DGS&D in 1992 and who have been assigned seniority on the basis of their regular promotion/appointment in their parent organisation. These individuals had been granted first class railway pass wrongly by the Railway Administration. However, Railway Board's letter E(W) 2000 PS-5-1/8 dated 2-5-2001 has clarified that the entitlement of first class pass in group "C" and group "D" are to be determined on the basis of their pay and date of entry in to RAILWAY SERVICE. This has not been done earlier, in the case of the applicants which led to their being granted first class passes wrongly. Respondents have thereafter proceeded to correct the mistake, the respondents point out that all the applicants were granted first class passes on reaching their pay at Rs. 5375/- instead of Rs. 7250/-. The service rendered by them in their earlier organisation has to be taken for reckoning only for the purpose of

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seniority and not otherwise. As they joined railway service between 1-4-1987 and 1-2-1999, their eligibility arose only on their reaching the pay of Rs. 7250/- and above or in the pay scale, minimum of which was Rs. 6500/-. In terms of Railway Board's, Advanced Correction Slip No.12 to the Railway Servants (Pass) Rules, 1986, as amended. The action taken by the respondents was totally proper and did not warrant any interference at all from the Tribunal, pleads Shri Khatter, ld. counsel. He also relied upon the decisions of the Punjab High Court in the case of **Ranjit Singh Vs. President of India & ors.** (1971 SLR 561), of Rajasthan High Court in **Gulab Chand Vs. State of Rajasthan** (1979 AISLJ 163) and of the Hon'ble Supreme Court in **A.K.Sharma and Anr. Vs. UOI & Anr.** (1999 (2) SCC 178), in support of his proposition.

7. I have carefully considered the matter. In this OA, the applicants who have been absorbed in Northern Railway in 1992, on being rendered surplus in DGS&D, are assailing the action of the respondents in withdrawing the facility of First Class Passes, granted to them by Railway Administration. These applicants were absorbed in the Northern Railway, as they were performing the purchase functions in DGS&D, relating to Railways. Therefore, their transfer and absorption in Railways was in due implementation of Government's policy of transferring the functions of DGS&D to various Ministries, for whom, the said functions were being performed by DGS&D earlier. Therefore, even if for arguments sake, the DGS&D staff were treated as surplus, their transfer to and absorption by the Railways have to be considered as a matter of public interest. It is keeping in mind the

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above, that the Railways have, by their letter No. E (NG) 1/92/TR/7 dated 18-10-1994, granted such transferees, benefit of seniority on the basis of their dates of regular promotion/appointment in the DGS&D in the relevant grades. Once such a decision has been taken, they are to be treated as Railway Servants for all purposes, entitled to all the benefits permissible to such Railway service, including passes of the appropriate class. In such a scenario, to deny them the benefit of appropriate class of passes, by holding that the 'appointment' meant, the appointment in Railways, does not stand to reason. It would also mean that the applicants are being discriminated, vis-a-vis, those who joined the Railways directly. Once the applicants have been absorbed in the Railways, with the benefit of their service for purpose of promotion etc., they cannot be treated as an inferior class of officers, as the impugned order has apparently done. The only criteria ^{in this regard} are the date of their joining the service and the pay and allowance they were drawing. The date has to be reckoned as the ² ~~dates~~ when they joined Railway Service, which in the present context means the dates when they joined the Govt. service. It would mean, therefore, that all the applicants would fall in the category 'B' i.e., as having been appointed between 1-8-1969 and 31-3-1987 with attendant benefits. As far as grant of passes is concerned, all those in category 'B' drawing pay of Rs. 5375/- and above and are in the scale, the maximum of which is Rs. 7,000/- and above, are entitled for grant of First Class Passes. The applicants cannot be denied the same. The distinction sought to be made by the respondents between the class

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of officers, who have come on transfer from DGS&D like the applicants and those who joined Railways directly, just for the purpose of grant of passes, is rather invidious, in as much as, this places the former, in respect of ^{right to} ~~grant of~~ facilities, below their juniors, in the organisation. This cannot be permitted.

8. I have also considered the decisions relied upon by the ld. counsel from both sides and I am convinced that the interpretation adopted by the respondents is leading to an unhappy situation, wherein two classes are being created, where no such distinction can exist in law. Further, the denial of the benefits, which the applicants have been enjoying for a number of years, that too without any notice, also cannot be endorsed. The ld. counsel for the respondents have specifically referred to the decisions, in terms of which, the Govt. can always take action to rectify the mistakes, if they come across the same. I fully endorse the rationale of the arguments. However, in the instant case, grant of benefits of passes to the applicants, who have come from DGS&D on absorption, at par with those similarly placed, who joined Railways directly, was no mistake and, therefore, no rectification, as felt by the respondents was called for.

9. In the above view of the matter, the OA succeeds and is accordingly allowed. Impugned order No.89/P/Pass/Misc./2000 dated 14-8-2001 passed by the General Manager (P), Northern Railway, New Delhi, is

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quashed and set aside. Actions initiated thereon follows suit.

10. General Manager, Northern Railway shall take action to restore the facility of First Class Passes to the applicants within two months from the date of receipt of a copy of this order. No costs.

11. MA 400/2002 has been filed on behalf of the respondents to have the name of Secretary, Ministry of Railways, Rail Bhawan, New Delhi, deleted from the list of respondents, as no specific relief is being sought from him and the directions, if any, of the Tribunal are to be carried out by General Manager, Northern Railway, who is shown as respondent No.2. As the OA is itself has been disposed of on merits, this MA has become infructuous and is accordingly disposed of.

(GOVINDAN S. TAMPI)
MEMBER (A)

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