

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(6)

D.A. No. 2212 of 1997
T.A. No.

DATE OF DECISION 20-02-98

Railway Board Sectt. Applicant (s)

Central Direct Recruit Group 'B' (N.G.)
Officers Association

Shri H. K. Gangarao Advocate for the Applicant (s)

Versus

Union of India & others Respondent (s)

Shri V. S. R. Krishnan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. R. K. ATTORAY, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? Yes

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(R. K. ATTORAY)
Member (A)

Like
Or

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2212/97

Hon'ble Shri R.K.Ahooja, Member(A)

(9)

New Delhi, this 20th day of February, 1998

Railway Board Sectt. Service
Direct Recruit Group-B (Non-Gazetted)
Officers Association
through
Shri U.K.Tiwari
Technical Assistant
and General Secretary
RBSSDR Gr.B(NG)
Officers Association. Applicant

(By Shri H.K.Gangwani, Advocate)

Versus .

Union of India and Others
through

1. The Chairman, Railway Board and Ex-officio Member Secretary to the Govt. of India M/o Railways, Rail Bhawan New Delhi.
2. The Secretary Railway Board Rail Bhawan New Delhi. Respondents

(By Shri V.S.R.Krishna, Advocate)

O R D E R

The applicant are members of an Association of Direct Assistants of Railway Board, and are designated as Group-B(Non-Gazetted) officers. Their grievance in short is that they are entitled to the benefit of Railway privilege Passes as are granted to Group-B officers of Railways in terms of the statutory Pass Rules 1986. It is contended that there is no distinction in these Rules between the Gazetted and Non-Gazetted Group-B employees. As per Rule 6(2) the category of Railway servants and the circumstances and the conditions under which a pass shall be issued have been specified in Schedule-II annexed to the Rules.

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As per Schedule-II all Group-A and Group-B Railway servants are entitled to 6 set of first 'A' privilege passes per calendar year irrespective of the pay drawn whereas for Group-C and Group-D Railway servants the class of passes is governed by pay drawn by them. The applicants also state that while respondents are treating them as Group-B employees in respect of productivity linked bonus to which Group-B Gazetted officers are not entitled they are, on the other hand, being denied the privileges of Group-B officers in respect of privilege passes.

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2. The respondents in reply have stated that though the terms 'Gazetted' and 'Non-Gazetted' have not been mentioned against Group-A, B, C & D, in Schedule-II of the Rules, these are well understood as defined in the Indian Railways Establishment Code. The entitlement has to be understood as 'Gazetted' Group-A and B officers and Non-Gazetted Group C and D officials. As per Correction Slip No.38 to Chapter-I, Volume-I of the Indian Railway Establishment Code issued vide letter dated 28.12.1995, Annexure-R1 the classification of posts has been made as follows:

Description of Posts	Classification of posts
All posts in scale Rs.2200-4000 and above (Revised Pay Scale)	Group 'A'
Posts in scale Rs.2375-3500 applicable to Accounts Officers only and other posts of Officers in scale Rs.2000-3500 (All Departments) (Revised Pay Scale)	Group 'B'
All posts in scales Rs.825-1200 and above including posts of Post-graduate Teachers (Selection Grade/Head-Masters-Middle School (Selection Grade) in scale Rs.2000-3500, Supervisors in scale Rs.2375-3500 and excluding those mentioned for group 'A' and 'B' (Revised Pay Scale).	Group 'C'

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All posts in scales Rs. 750-940, Rs. 775-1025
and Rs. 800-1150 (Revised Pay Scale) Group 'D'

3. The respondents state that according to the aforesaid classification of posts, the entitlement of the applicants fall under Group-C.

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4. I have heard the counsel on both sides. The claim of the applicants is based on two grounds, namely, that in the Schedule-II of Rules there is no distinction between Group 'B' Gazetted and Group-B Non-Gazetted employees in regard to their entitlement and therefore they are equally entitled to all the privileges available to Group-B gazetted officers. Secondly, they allege that the respondents themselves having treated them to be in the Group-B category along with the Group-B Gazetted employees in respect of grant of productivity linked bonus. On both these grounds, I find that applicants do not have a strong case. It is correct that Schedule-II does not provide a distinction between Gazetted and Non-Gazetted Group-B officials. In view of this reference necessarily has to be made to the Indian Railway Establishment Code and as per Correction Slip No.38 only officers in scale Rs. 2000-3500 (4th Pay Commission scale) and above are to be categorized as Group-B Gazetted. Since the applicants were in the pay scale of Rs.1640-2900 they would fall in terms of this classification as Group-C employees. The contention of the learned counsel for the applicant that the Rules, having been framed in terms of the exercise of powers under Article 309 of the Constitution, have to be read, as framed, is not relevant since the Railway Pass Rules are silent on

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distinction between the Gazetted and Non-Gazetted categories and therefore recourse necessarily has to be made to the other provisions which have also been framed in exercise ^{power under} of Article 309 of the Constitution. The correction slip to Rule 107 of the Indian Railway Establishment Code, Vol.1, Annexure-R1 has also been issued in exercise of powers under Article 309 of the Constitution. Hence the interpolation of the classification given in Rule 107 into the pass Rules of 1986 to cover the gap arising out of the non-provision of the entitlement of Group-B Non-Gazetted in pass Rules cannot be said to be a violation of the statutory procedures of Pass Rules.

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5. In respect of the second contention, I find that the applicants are on firmer ground inasmuch as the respondents initially decided to deny them the benefit of productivity linked bonus. However during the course of the arguments, the respondents produced Government of India letter No.E(P&A)II-97/PLB-3 dated 3.10.1997 according to which the Non-Gazetted Group-B employees of the Railways which includes the applicants have been made eligible for grant of productivity linked bonus. The learned counsel for the applicants argued that the applicants cannot be given the worst of both the worlds, denying them on one hand the privileges of passes as Group-B officials and ~~denying~~, on the other, ^{also} ~~denying~~ them the productivity linked bonus as Group-B officials. I entirely agree with the learned counsel. However, on the same analogy the respondents cannot have their cake and eat it also by claiming the bonus as Group-B Non-Gazetted officials and getting the passes as

Group-B gazetted officials. Accordingly, so long as they continue to get the Bonus they cannot have themselves treated as Group-B officials in all respects.

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6. In view of the above discussion, I find no merit in the application. The same is accordingly dismissed. Needless to say that if the respondents are tomorrow denied the Bonus on the ground that they are Group-B officers it would be open to them to re-agitate the matter in respect of other privileges which are given to Group-B officers.

There shall be no order as to costs.

R.K. AHOJA
(R.K. AHOJA)
MEMBER (A)

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