



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No. 4468/2017
with
M.A. No. 2044/2018**

This the 18th day of February, 2020

Hon'ble Mr. Ashish Kalia, Member (J)

J.P. Swarnkar (Jagdish Prasad Swarnkar)
Aged about 65 years son of late Shri Babul Swarnkar,
Rtd. Head Booking Clerk, Group 'C'
From Ballabgarh Railway Station,
Delhi Division, Northern Railway,
Resident of 201, Baraiya Complex,
Tansen Road, SBI Complex, Gwalior,
District GWALIOR M.P. 747 002.

... Applicant

(By Advocate : Sh. P.S. Khare)

VERSUS

1. Union of India through
The General Manager,
North Central Railway,
Saraswati Parisar, Subedarganj,
ALLAHABAD, U.P.
2. The Divisional Railway Manager,
North Central Railway, Jhansi,
District JHANSI (U.P.) 284002.
3. The General Manager,
Northern Railway, Baroda House,
NEW DELHI-110 001;
4. The Divisional Railway Manager,
Northern Railway, State Entry Road,
NEW DELHI-110 052.

... Respondents

(By Advocate: Sh. Shailendra Tiwary for R-1&2 and
Sh. Krishna Kant Sharma for R-3&4)

ORDER (Oral)

Hon'ble Mr. Ashish Kalia, Member (J):

In the present Original Application, following reliefs have been sought:-

“8.1 to allow the OA and direct the respondents to release all the three up-gradations under ACP/MACP Schemes w.e.f. 01.10.1999 and 01.09.2008 and all the retirement benefits namely, Pension, Gratuity, Provident Fund, Leave Encashment, Group Insurance etc. w.e.f. 01.08.2002 with arrears and interest thereon w.e.f. 01.08.2002 @ 18% p.a. compounded yearly till the date of actual payment; and

8.2 to grant any other or further appropriate relief as deemed just and proper by this Hon'ble Tribunal as per facts and circumstances of the case besides costs and expenses of the present litigation to the extent of Rs. 55,000/-.”

2. The applicant was initially appointed as Assistant Station Master (ASM) in the year 1973 at Bina Railway Station of Jhansi Division, Central Railway. Thereafter, he was transferred on 03.04.1991 to Area Controller (ACOR), Jhansi. On 27.08.1991, he was medically decategorised by the Competent Authority and he was put on the light duty on 06.02.1997 Ballabgarh Station which was part of erstwhile Jhansi Division of Central Railway. The applicant was working as Chief Law Assistant at Jhansi but his pay was drawn from Ballabgarh Station as Head Booking Clerk.



3. As per Office Order dated 06.02.1997 which is annexed in Annexure A-6, it reveals that DPO JHS wrote a letter to Central Railway, Office of the DRM (P) Jhansi that “Sh. J.P. Swarnkar, HBC Gr.Rs. 1400-2300 RPS is transferred in the same grade and posted at BVH as HBC against the existing vacancies in the administration account.”

4. According to the applicant vide Annexure A-7, his service record has been transferred on merger of re-organisation of railways w.e.f. 01.04.2003. Ballabgarh Division has been handed over to Delhi Division of Northern Railway and service records were submitted to one Sh. Anirudh Saxena. Thereafter, the applicant was subject to charge sheet of authorised absence. Due to passage of time, he has been retired from service without having any adverse remarks or penalty against him despite the charge sheet had been issued to him. Thus, he is entitled for pensionary benefit for rendering approximately 28 years of service. Prior to that, on 08.11.2001, the applicant seriously fell ill and he was treated by private medical practitioners as well as in government medical hospitals and he is entitled for pensionary benefits.



5. Notices were issued by this Tribunal. Respondents put appearance. The detailed reply has been filed by the standing counsel, Sh. Shailendra Tiwary for Respondents No. 1 & 2 (Jhansi Division) and Sh. Krishna Kant Sharma for Respondent No. 3 & 4 (Delhi Division).

6. Respondents have raised various objections, first of such objection is that no medical certificate had been submitted by the applicant to the respondents. It is further submitted in para 4.9 of the OA, the applicant's contention in regard to the re-grouping of the Railway Zones and the Divisions, where the Ballabgarh Station became part of the Delhi Division, Northern Railway w.e.f. 01.04.2003 and all records of the applicant such as service records and personal file were transferred to Delhi Division and he was working there. It is further stated as per the charge sheet that the applicant lastly worked at Ballabgarh Division. It is further stated that applicant was working as Head Booking Clerk at Ballabgarh Division and Sr.DCM/Jhansi had called him at Jhansi for few days for some specific work and lastly, it is prayed that the OA be dismissed being devoid of merit.



7. Counter reply filed by the Respondents No. 3 & 4 (Northern Railway in Delhi Division) has raised preliminary objections and submitted that false and frivolous application has been filed by the applicant. He has further stated that the applicant resumed his duty at BVH on 26.11.1999 on being relieved from Gwalior Station. His pay particulars were not received as such his pay was not charged in the bills of BVH station.

8. In the counter reply, Respondents No. 3 and 4 literally denied having submitted in the OA vide Annexure R-1 where Station Superintendent of Ballabgarh, Northern Railway has wrote a letter to the Divisional Railway Manager, Northern Railway, DRM, showing his inability to make payment towards the salary because of non-receipt of last payment certificate.

9. Heard the counsels for the parties at length. The issue raised in the present OA is that whether the applicant is entitled for pensionary benefits after rendering 28 years of service or not. No doubt, the documents show that he has rendered his service till 06.02.1997 at Ballabgarh Division as Head Booking Clerk but his salary was drawn from the Jhansi



Division and the exact reason has not been disclosed why the Ballabgarh Division is not issuing salary to the applicant.

10. This Tribunal can assume in absence of any relevant documents shown that either he has been temporarily posted to the said place or reason being the last pay certificate has not been handed over the Ballabgarh Division. But the fact remains that the applicant was subject to charge sheet issued by Ballabgarh Division for his unauthorised absence and till date, neither anything has been communicated to the applicant nor the respondents took stand that he has been awarded any penalty after culmination of departmental proceedings.

11. The basic contention raised by the respondents in the present OA is that the applicant has approached this Tribunal more than two decades for claiming benefits and he has not even produced his last pay slips, which he has received from the Department. Further, he has neither produced any medical certificate to the Competent Authority nor proved that he was seriously ill. However, he has made a representation dated 09.07,2014 (Annexure A-8) through proper channel addressing to the General



Manager NCR (Now), Then Central Railway MBCST, Allahabad.

12. Thus, in this conspectus of the circumstances, this Tribunal is of the view that as per own submission of the applicant, he has been lastly working at Ballabgarh Division, which is merged with the Delhi Division and the applicant shall make a detailed representation to the respondents stating all the necessary facts and he shall produce proof of his illness, any proof of his last pay received by him and any proof of his payment of his salary. This exercise shall be completed within a period of 30 days. Thereafter, the respondents shall take cognizance of all circumstances and dispose of the representation within 60 days, if nothing is found against the applicant departmentally otherwise, the department is at liberty to proceed further against him in accordance with law.

13. With these observations, OA along with MA stands disposed of. No order as to costs.

(Ashish Kalia)
Member (J)

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