

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMADABAD BENCH
Original Application No.153/2019
Dated this the 11th day of January 2021**

CORAM:

Hon'ble Shri Jayesh V. Bhairavia, Member (J)

Hon'ble Dr. A.K. Dubey, Member (A)

Shri Manikandan,

Son of Shri Pichumuthu,

Age: 39 years, working as Trolleyman

In the office of the respondents

Residing at: E/16-C Dehgam Railway Colony,

Nandol, Dahegam – 382 605.

... Applicant

By Advocate Shri M S Trivedi

V/s

1 Union of India through
The General Manager,
Western Railway,
Churchgate, Mumbai – 400 020.

2 The Divisional Railway Manager,
O/o. DRM, Western Railway,
Ahmedabad Division,
Opp. GCS Hospital, Naroda Road,
Amdupura, Ahmedabad – 382 341

3 Senior Divisional Engineer,
O/o. Sr. DEN, Western Railway,
Ahmedabad Division,
Opp. GCS Hospital, Naroda Road,
Amdupura, Ahmedabad – 382 345.

... Respondents

By Advocate Ms Nisha Parikh

ORDER (ORAL)

Per Shri Jayesh V. Bhairavia, Member (J)

- 1 The applicant has filed the instant OA aggrieved by the non grant of due benefit of higher pay/Grade pay – Rs.2800/- vide impugned order No. No.EE/351/426/CAT/MK dated 18.02.2019 (Annexure A/1) and has prayed for quashing and setting aside the impugned order and

further sought relief for direction to be issued to the respondents to consider his claim for consequential benefit of promotion taking into consideration that he was given benefit of financial upgradation in GP 1900/- w.e.f. 01.09.2018 and his seniority position in the seniority list of Track Maintainer Grade III (Rs.1900/- GP) dated 28.03.2018. It is stated that applicant had joined the service as Trolleyman on compassionate ground w.e.f. 01.03.1998. Initially the respondents had issued seniority list of Track Maintainer Grade III Rs.1900/- GP under SSE/PW/MG/SBI, in the said list his name was placed at Sr. No.17 and his date of appointment was shown as 07.03.1998. One employee Shri Vinod Kumar was shown at Sr. No.16 in the said list and his date of appointment was shown as 23.11.1995. Thereafter, the respondents by Ann. A/2 had issued another seniority list wherein the name of applicant was pushed from Sr.No.17 to Sr. No.21, in the said list. It is stated that the employees at Sr. No. 17 to 20 in the said list were in fact appointed after 1998. Since applicant was appointed much before them and he being senior to said employees, the respondent ought not to have shown the said employees as senior to applicant.

It is also contended that he had completed 12 years of service in the year 2010 and according to the terms of scheme of MACP, he was entitled for first MACP in the year 2008. However, he was given the benefit of MACP after six years and same was granted in the year 2015.

- 2 It is contended that juniors to applicant were called for selection for GP Rs.2800/- whereas the applicant was deprived of the same against which the applicant had submitted representation dated 30.10.2017 and 23.04.2018 (Ann. A/4 series). However, the request of applicant was not considered hence he had approached this Tribunal by way of OA 426/2018. The said OA came to be disposed of vide order dated 01.11.2018 with a direction to respondents to consider the pending representation of the applicant and pass a reasoned and speaking

order, subsequent to which the respondents have passed impugned order dated 18.02.2019 (Ann A/1) which is impugned herein.

- 3 The learned counsel for the applicant submits that the applicant had joined the respondents department as Trolleyman w.e.f. 07.03.1998 and he was granted GP-Rs.1800/- payable to the Gangman vide communication dated 18.02.2019. It was also stated in the said letter that he was given the first financial upgradation w.e.f. 01.09.2008 at GP Rs.1900/-. At this stage the counsel for applicant also submits that w.e.f. 01.04.2014 proforma promotion as Track Maintainer Grade III was granted to the applicant whereas some other employees whose names were listed in Table A were granted proforma promotion w.e.f. 17.08.2012. It is the grievance of the applicant that as per impugned communication dated 18.02.2019 it is stated that he was given MACP in GP Rs.1900/- w.e.f. 01.09.2008 and thereafter he was promoted on regular basis in GP Rs.1900/- w.e.f. 01.04.2014. In this regard it is also contended that the said impugned decision is not correct and same is contrary since it is mentioned in order dated 21.01.2016 that the employees are entitled for pay fixation as per provision of Rule 1313(1)(a)(i) of IREC – Vol. II. The employees who were initially shown junior to applicant were given benefit of promotion from 17.08.2012 whereas the applicant was given benefit of promotion from 01.04.2014 which is neither legal nor proper. The speaking order is silent on this aspect. The respondents had referred to RBE 101/2009 and RBE 111/2014 but same has neither been discussed in detail nor any specific reason been assigned for denial of the same. The respondents have erroneously stated that applicant was working on GP-1900/- on regular basis therefore he is not eligible for promotion in GP-2800/-. Hence, this OA.
- 4 On the other hand the respondents have filed detailed reply on receipt of notice wherein it is submitted that the applicant belongs to SC category, he was appointed as Trolleyman in 1998. However, inadvertently in the seniority list issued by ADEN/SBI up to 2018 he

was shown as UR category employee. The said mistake was rectified vide seniority list issued on 10.09.2019. The case of the applicant was put up to competent authority and same has been approved by granting proforma promotion in GP Rs.2400/- and GP Rs.2800/- at par with junior SC employees to the applicant and the applicant is eligible for promotion on proforma basis i.e. GP Rs.2400/- from 17.08.2014 and at GP Rs.2800/- from 11.01.2018. Accordingly copy of seniority list dated 10.09.2019 indicating the said seniority position of the applicant and grant of benefit of GP at par with his juniors (Ann. R/1). Since it is a lengthy procedure, the concerned departments were directed for early action to give effect of promotions to the applicant vide communication dated 29.10.2020.

- 5 From the above submission of the respondents it is noticed that the grievance of the applicant has been redressed and he has been considered as SC category employee and granted correct seniority alongwith extending of consequential benefits at par with his juniors. Nothing survives for consideration. Accordingly OA stands disposed of as infructuous.

(Dr A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)

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