

**(Reserved on 19.10.2020)**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.**

Dated : This the 01<sup>st</sup> day of December 2020

**Original Application No. 330/00479/2020**

**Hon'ble Justice Mrs. Vijay Lakshmi, Member (J)  
Hon'ble Mr. Anand Mathur, Member (A)**

Rohit Raj, age about 29 years, S/o Shri Upendra Narayan Singh, R/o 62/259-A, Mustafa Quarter, Agra Cantt (UP), Pin Code - 282001.

. . .Applicant

By Adv : Shri P.K. Mishra

**V E R S U S**

1. Union of India through General Manager, North Central Railway, Headquarters Office, Allahabad.
2. Divisional Railway Manager, North Central Railway, DRM's Office, Agra.
3. Senior Divisional Personnel Officer, North Central Railway, DRM's Office, Jhansi.
4. Senior Divisional Personnel Officer, North Central Railway, DRM's Office, Agra.
5. Senior Divisional Electrical Engineer (OP), North Central Railway, DRM's Office, Agra.

. . .Respondents

By Adv: Shri Shesh Mani Mishra

**O R D E R**

**By Hon'ble Justice Mrs. Vijay Lakshmi, Member (J)**

We have heard Shri P.K. Mishra, learned counsel for the applicant and Shri Shesh Mani Mishra, learned counsel for the respondents on admission and have gone through the record.

2. The applicant is aggrieved by the order dated 24.08.2018 (Annexure A-1) whereby he has been reverted from the post of Senior Assistant Loco Pilot in Pay Band 5200-20200 + Grade Pay 2400 to Assistant Loco Pilot in Pay Band 5200-20200 + Grade Pay 1900. The basic pay of the applicant was also reduced from Rs. 27,100/- to Rs. 26000/- per month in pursuance of the impugned transfer order dated 24.08.2017.

3. The facts of the case, in brief, are that the applicant was recruited in North Central Railways as Assistant Loco Pilot in Pay Band 5200-20200 + Grade Pay 1900 through Railway Recruitment Board on 02.12.2013. He was posted in Jhansi Division of North Central Railway (in short NCR). The applicant being resident of Agra, searched for persons of same cadre and same pay band in Agra Division of NCR for the purpose of mutual transfer. He found one person namely Ramkesh working in the same cadre and in the same pay band in Agra Division of NCR and moved an application for mutual transfer in the year 2015. However, by the time the request for mutual transfer could have been considered by the department, the applicant was promoted as Senior Assistant Loco Pilot in Grade Pay of Rs. 2400/. According to the applicant, his mutual transfer partner namely Ramkesh was also promoted as Senior Assistant Loco Pilot in Grade Pay of Rs. 2400/- and their names were interpolated in respective seniority list of Senior Assistant Loco Pilots. However, the respondents without issuing any notice to the applicant, arbitrarily reverted him from the post of Senior Assistant Loco Pilot with Grade Pay Rs. 2400/- to Assistant Loco Pilot with Grade Pay Rs. 1900/- and also reduced

his basic pay while issuing the mutual transfer order. The applicant moved representations but none of his representations were considered.

4. The applicant being aggrieved has prayed by means of the instant OA, to issue a direction to the respondents to re-fix his pay after his mutual transfer and to pay him arrears of pay and allowances accordingly. Prayer has also been made to quash the impugned order dated 24.08.2017. No interim relief has been prayed by the applicant.

5. In support of his contentions, learned counsel for the applicant has placed reliance on the **judgment dated 06.08.2013 passed by CAT, Principal Bench in OA No. 3788/2011- Bhanu Prakash Vs. UOI & Ors** and **judgment dated 24.04.2018 passed by CAT, Allahabad Bench in OA No. 334/2017 – Vinesh Kumar Vs. UOI & Ors.**

6. The applicant has annexed the copy of the impugned order as Annexure A-1, a typed copy of which has been filed by means of Misc. Application as Annexure MA-1 and typed copy of order dated 30.12.2016 as Annexure MA-2. A copy of Chapter III of Indian Railway Establishment Manual Vol. I comprising of rules regulating seniority of the railway servants, Rule 310 of which provides for mutual transfer of the railway employees, has also been annexure as Annexure A-6 to the OA.

7. For ready reference, Rule 310 of the aforesaid manual is reproduced below: -

**“310. MUTUAL EXCHANGE** – (a) Railway servants transferred on mutual exchange basis from one cadre of a Division /Office /Railway/ PU/ Unit to the corresponding cadre in another Division /Office /Railway/ PU/ Unit shall retain their seniority on the basis of the date of promotion to the grade or take the seniority of the railway servants with whom they have exchanged, whichever of the two may be lower.”

8. The impugned order dated 24.08.2017 is also reproduced: -

“उत्तर मध्य रेलवे  
कार्यालय  
म.रे.प्र.(का.) झॉसी  
पत्रांक: पी./400/4/2/एम.ई./आई.डी./एल.आर./2015-17  
दिनांक: 23/24.8.2017

मण्डल रेल प्रबन्धक (का.)  
उ.म.रेलवे, आगरा

विषय: अन्तर मंडलीय पारस्परिक स्थानान्तरण पर श्री रोहित राज पुत्र श्री उपेंद्र नारायण सिंह, वरि. सहा. लोको पायलट झॉसी वेतनमान 5200-20200+2400 जी.पी. को आगरा मण्डल रिलीव करने के संबंध में।

श्री रोहित राज पुत्र श्री उपेंद्र नारायण सिंह, वरि. सहा. लोको पायलट झॉसी वेतनमान 5200-20200 + 2400 जी.पी. का अन्तर मंडलीय पारस्परिक स्थानान्तरण आपके मंडल के श्री रामकेश पुत्र श्री जमुना प्रसाद सहायक लोको पायलट वेतनमान 5200-20200 + 1900 जी.पी. के साथ इस कार्यालय के पत्र संख्या- पी./400/ 4/2/एम.ई./आई.डी./एल.आर./2017 दिनांक 04.6.2017 के माध्यम से होना स्वीकृत हुआ है। झॉसी मंडल के श्री रोहित राज पुत्र श्री उपेंद्र नारायण सिंह, वरि. सहा. लोको पायलट झॉसी वेतनमान 5200-20200 + 2400 जी.पी. को आज दिनांक 23/24.8.2017 को पदावनत पद सहा. लोको पायलट में जी.पी. 1900 में कार्यमुक्त कर आपके मंडल भेजा जा रहा है। कर्मचारी के सेवा विवरण निम्न प्रकार है:

1—	नाम	श्री रोहित राज
2—	पिता का नाम	श्री उपेंद्र नारायण सिंह
3—	जन्मतिथि	01.6.1991
4—	भर्ती तिथि	02.12.2013
5—	वेतन वृद्धि दिनांक	01.7.2018
6—	पी.एफ. नंबर	J1400450
7—	वे.मा.	5200-20200+2400 जी.पी.
8—	वेतन	27,100/-
9—	वर्ष 2017 में लिए पास पी.टी.ओ.	एक सैट पास तीन सैट पी.टी.ओ.
10—	पी एम ई अगला इयू	01.11.2013 / 31.10.2017
11—	रेफेरेसर कोर्स अगल इयू	06.3.2017 / 06.3.2020
12—	डी.ए.आर.	निल
13—	प्रान नंबर	रिलिविंग पत्र में अंकित नहीं है।
14—	समुदाय	OBC
15—	ट्रेकशन	AC

कर्मचारी स्थानान्तरण पर मिलने वाली सुविधाओं का पात्र नहीं है, कर्मचारी का माह अगस्त 2017 का वेतन इस कार्यालय द्वारा पास किया गया इसके पश्चात् का वेतन कृपया आगरा मण्डल से पास करवाने की व्यवस्था करें।

कृपया कर्मचारी को कार्य पर लें और इसकी सूचना इस कार्यालय को देने की व्यवस्था करें। इसे सक्षम अधिकारी (वरि.म.वि.अभि./ओ.पी.) का अनुमोदन प्राप्त है।

कर्मचारी के हस्ताक्षर एवं बायें हाथ का अंगूठा का निशान

Attested

ह. अ.

(जी. पी. मिश्रा)

कृते म.रे.प्रब. (का.)

उ.म. रेल, झॉसी

प्रति— वरि.म.वि.अभि./ओ.पी. झॉसी, आगरा, वरि.म.यां.अभि./ओ. एंड एफ. झॉसी/आगरा

वरि.म.वित्त प्रब. झॉसी / आगरा, सीनि ईडीपी एम झॉसी, आगरा

सी सी सी झाँसी को उनके पत्र दिनांक 19.8.2017 के संबंध में सूचनार्थ प्रेषित

एवं लिपिक एलआर अनुभाग, मुख्य लोको निरीक्षक / मुख्या. झाँसी ”

9. A perusal of rule cited above clearly shows that the railway servant transferred on mutual exchange basis from one cadre of a Division to the corresponding cadre to another Division shall retain their seniority on the basis of date of promotion to the grade or take the seniority of the railway servant with whom they have exchanged, whichever of the two may be lower.

10. The applicant is aggrieved due to the reason that despite the fact that he and his mutual transfer partner, both were promoted to the higher Grade Pay of Rs. 2400/- on the date when the mutual transfer order was passed, he was arbitrarily reverted to the Grade Pay of Rs. 1900/-.

11. The contention of the learned counsel for the applicant that the applicant's mutual transfer partner namely Ramkesh had also been promoted on the date when the mutual transfer order was passed, appears to be baseless having no legs to stand. The reason is that the applicant has not filed any cogent proof regarding the promotion of his mutual transfer partner, Ramkesh except one document MA-2 which, according to the applicant, is promotion order of Ramkesh.

12. Whereas Annexure MA-2 *prima facie* reflects that it is not a promotion order but it is only a report of DPC with regard to suitability of railway staff for promotion, which is evident from perusal of the

very language of the report dated 30.12.2016 (Annexure MA-2) quoted below: -

“Subject: Suitability with prescribed benchmark for the post of Loco Pilot Goods Gr. Rs. 9300-34800+GP-4200/- against Deptt. Quota in Elect (OP) department.

Ref: P/Agra/2016/24 dated 30.12.2016.

In reference above Railway Board's letter No. E(NG)I/2008/PM-I/15Vol-II dated 07.06.2010 (RBE No. 81/2010), E(NG)I/2008/PM-I/15 dated 09.02.2016 (RBE No. 15/2016) & GM(P)/ALD L. No. 797- ई/स्था./वि/ पत्राचार/मंडल/26 दिनांक 12.8.2016 the following staff is found suitable by the DPC for the post of Elect.(OP) department for 243 (UR=148+SC=65+ST=30) vacancies.....”

After this, there is a list of 114 employees. The name of the mutual partner of the applicant is appearing at Sl. No. 16 in it. Moreover, it is clearly mentioned in para 3, 4 and 5 of the aforesaid list that : -

“3. The suitability select list is provisional subject to modification on final outcome of any court case pending before various Hon'ble Courts and new fact coming to the notice of administration later on.

4. It is advised that merely placement on the provisional suitability select list has no guarantee for retention of his name on the provisional select list, which will depend on satisfactory service during the pendency of the provisional suitability select list.

5. The above provisional suitability select list is subject to the condition that the candidates are free from D&AR and vigilance case.”

13. Thus, it is very clear that the list dated 30.12.2016 (MA-2) is not a promotion order of the mutual transfer partner of the

applicant namely Ramkesh but is only a report of DPC that the names of the employees mentioned in the list attached to the report, have been found suitable by the DPC, for the promotion to the post of Loco Pilot Goods. The applicant has not filed any document to show that his mutual transfer partner was promoted to the GP Rs. 2400/-. Hence, in absence of any proof of promotion of the mutual transfer partner namely Ramkesh, it cannot be said that Ramkesh was also drawing same pay in the same Grade Pay, as the applicant was drawing at the time of his mutual transfer.

14. As per Rule 310 of Chapter III of Indian Railway Establishment Manual Vol. I comprising of rules regulating the seniority of the railway servants quoted above, the applicant was to take the seniority of the railway servant with whom he had exchanged transfer, whichever of the two may be lower, therefore, he was reverted to the lower Grade Pay Rs. 1900/- from Grade Pay Rs. 2400/-.

15. There does not appear any ground to intervene in the impugned order, which has been passed as per rules. The two judgments relied upon by the applicant, as cited above, cannot give any benefit to the applicant as the facts of both the judgments are entirely different. In the case before CAT, Principal Bench, the applicant and his mutual transfer partner, both were promoted in the same grade pay at the time when the mutual transfer order was passed whereas, in the case in hand, only the applicant was promoted to the Grade Pay Rs. 2400/- and his mutual transfer partner Ramkesh had not been promoted.

16. Likewise, in the judgment passed by the CAT, Allahabad Bench in OA No. 334/2017, the applicant had requested to cancel the mutual transfer request and had moved a representation for this purpose but the department without considering his request for cancelling the mutual transfer, passed the order reverting him to a lower scale whereas, in the instant OA, no such facts exist.

17. In view of the above discussions, the OA appears to be without any force and is liable to be dismissed at the admission stage. Accordingly, the OA is dismissed.

18. There shall be no order as to costs.

19. Hon'ble Shri Anand Mathur, Member (Administrative) has consented to this order through email.

**(Anand Mathur)**  
Member (A)  
Anand...

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