

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.354/2018 & 368/2018

Date of Decision: 21.02.2020.

CORAM: R. VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

Shri Sushanta Kumar Panda
S/o Shri Alekha Prasad Panda,
Age 42 years, (DOB 02.06.1975),
Design: Staff & Welfare Inspector,
Working under Mumbai Division,
Mumbai Central, Western Railway.
R/at Flat No.C-201, Viva Nishad,
Swaraganga CHSL., Agashi Road,
Bolinj, Virar (W), Palghar 401 303. ... *Applicant in OA 354/18*

Shri Rajendra Singh
S/o Shri Hinglaj Singh,
Age 54 years, (DOB 15.04.1963),
Desig: Sr. Goods Guard,
Working under A.R.O., CCG
R/at Flat No.102, Sonam Apartment,
P.P. Marg, Virat Nagar, Virar (West),
Palghar - 401 303. ... *Applicant in OA 368/18*

(Advocate Shri Raghavendra Mehrotra)

VERSUS

1. The Union of India,
Through the General Manager,
Western Railway, Headquarters Office,
Churchgate, Mumbai 400 020.
2. Chief Personnel Officer,
Western Railway, Headquarters Officer,
Churchgate, Mumbai 400 020.
3. The General Manager
Western Railway, Headquarter Office,
Churchgate, Mumbai 400 020.

4. The Divisional Railway Manager,
Western Railway, Mumbai Division,
Mumbai Central, Mumbai 400 008.

... Respondents
in OA No.354/2018.

1. The Union of India,
Through Respondent No.3.
2. The Secretary,
Railway Recruitment Board, Bhopal,
East Railway Colony, Bhopal 462 010.
3. The General Manager
Western Railway, Headquarter Office,
Churchgate, Mumbai 400 020.
4. The Divisional Railway Manager,
Western Railway, Mumbai Division,
Mumbai Central, Mumbai 400 008.

... Respondents
in OA No.368/2018.

(Advocate Ms. Sangeeta Yadav)

ORDER (Oral)

Per : R.N. Singh, Member (J)

Heard Shri Raghavendra Mehrotra,
learned counsel for the Applicant in both
the OAs and Ms. Sangeeta Yadav, learned
counsel for the Respondents.

2. It is the admitted case of the parties
that Advertisement for selection was issued
by the Railway Recruitment Board (RRB) in OA
No.354/2018 on 30.11.2002 and in response to
the aforesaid Advertisement, the applicant
therein has applied and underwent the
selection process. The Applicant was
declared successful in the written

examination on 16.09.2003 and he was issued letter for verification of candidature and certificates on 09.10.2003 and further empanelment was issued by RRB on 14.11.2003. However, the applicant could be appointed on a later date.

3. Similarly, in OA No.368/2018 it is the admitted case of the applicant that advertisement was issued by the Railway Recruitment Board (RRB), Mumbai in Employment Notice on 29.06.2002 and in response to such Advertisement the applicant applied and participated in the selection process and after completing selection process, the respondents on 04.09.2003 issued call letter to the applicant and similarly placed persons for verification of candidature and certificates and further empanelment letter was issued on 26.09.2003. However, the applicant could join the services of the respondents on a later date.

4. In both these cases, it is admitted fact that delay in joining of the services, is not attributable to the applicants.

5. In OA No.354/2018, the applicant has prayed for the following reliefs;

"8.a By issue of an appropriate order or directions the respondents authorities may be directed to consider the case of the applicant for conversion to old pension scheme and include them in Railway Services (Pension) Rules, 1993 and its benefits with all consequential reliefs may kindly be released to the applicants within a period of 2 months further thereto;

b) The respondents may further be directed to stay the deduction of the amount under the head of New Pension Scheme and previously deducted amount under the New Pension Scheme may be converted into Railway Services (Pension) Rules, 1993 as herein mentioned as Old Pension Scheme.

c) Direct the respondent to induct the applicant into statutory pension scheme under Railway Services (Pension) Rules, 1993 Pension Rules notionally treating them to have been appointed as App. Electrical Signal Maintainer from the date of occurrence of vacancies in the year 2002 for the limited purpose of grant of pension under Railway Services (Pension) Rules, 1993.

d) Direct the respondents to stop all recoveries from the pay and allowances of the applicant towards New Pension Scheme and refund the entire amount so far recovered from the applicant with immediate effect.

e) Any other or further suitable reliefs to which the applicant may be found eligible and entitled in facts and circumstances of the case may kindly be granted in the interest of justice and equity;

f) Cost of this application be provided for."

6. In OA No.368/2018, the applicant has prayed for the following reliefs;

"8.a By issue of an appropriate order or directions the respondents authorities may be directed to consider the case of the applicant for conversion to old pension scheme and include them in Railway Services (Pension) Rules, 1993 and its benefits with all consequential reliefs may kindly be released to the applicants within a period of 2 months further thereto;

b) The respondents may further be directed to stay the deduction of the amount under the head of New Pension Scheme and previously deducted amount under the New Pension Scheme may be converted into Railway Services (Pension) Rules, 1993 as herein mentioned as Old Pension Scheme.

c) Direct the respondent to induct the applicant into statutory pension scheme under Railway Services (Pension) Rules, 1993 Pension Rules notionally treating them to have been appointed as App. Goods Guard the date of occurrence of vacancies in the year 2002 for the limited purpose of grant of pension under Railway Services (Pension) Rules, 1993.

d) Direct the respondents to stop all recoveries from the pay and allowances of the applicant towards New Pension Scheme and refund the entire amount so far recovered from the applicant with immediate effect.

e) Any other or further suitable reliefs to which the applicant may be found eligible and entitled in facts and circumstances of the case may kindly be granted in the interest of justice and equity;

f) Cost of this application be provided for."

7. During the pendency of the OA, the Government of India through Department of

Pension & Pensioners' Welfare has issued an Office Memorandum dated 17.02.2020, a copy of which has been placed on record by the learned counsel for the Applicants on the subject 'Coverage under Central Civil Services (Pension) Rules, 1972, in place of National Pension System, of those Central Government employees whose selection for appointment was finalized before 01.01.2004 but who joined Government service on or after 01.01.2004'.

8. Para 4 of the said OM dated 17.02.2020 reads as under:

"4. The matter has been examined in consultation with the Department of Personnel & Training, Department of Expenditure and Department of Legal Affairs in the light of the various representations/references and decision of the Courts in this regard. It has been decided that in all cases where the results for recruitment were declared before 01.01.2004 against vacancies occurring on or before 31.12.2003, the candidates declared successful for recruitment shall be eligible for coverage under the CCS (Pension) Rules, 1972. Accordingly, such Government servants who were declared successful for recruitment in the results declared on or before 31.12.2003 against vacancies occurring before 01.01.2004 and are covered under the National Pension System on joining service on or after 01.01.2004, may be given a on-time option to be covered under the CCS(Pension)Rules, 1972. This option may be exercised by the concerned Government servants latest by 31.05.2020.

9. In view of the aforesaid, the present OAs are disposed of with directions to the applicants to exercise their option in accordance with the OM dated 17.02.2020 and in case such options are exercised by the applicants, the respondents shall consider the same keeping in view the provision of the aforesaid OM dated 17.02.2020 and will pass an appropriate orders in accordance with law.

10. The OAs are disposed of in the aforesaid terms. However, in the facts and circumstances, no order as to costs.

(R.N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

dm.

JD
04/03/2020

