

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.626/87

Date of decision:- 21/11/87

Sh.Rishi Kant Gupta & 3 ors....

Applicants

versus

Union of India through
Secretary,
Railway Board,
New Delhi & ors.

Respondents

CORAM: THE HON'BLE SHRI P.C.JAIN, MEMBER(A)
THE HON'BLE SHRI J.P.SHARMA, MEMBER(J)

For the Applicants ... Sh.B.S.Charya, Counsel.

For the Respondents ... None

JUDGEMENT

(Delivered by Hon'ble Shri P.C.Jain, Member(A))

All the four applicants in this OA under Section 19 of the Administrative Tribunals Act, 1985 were at the relevant time posted as Assistant Station Masters in the grade of Rs.330-560 in the Delhi Division of the Northern Railway. Two other grades in the cadre of Assistant Station Masters were Rs.425-645 and Rs.455-700. Restructuring of certain Groups 'C' and 'D' cadres was ordered by the Railway Board in their letter dated 29.7.1983(Annexure-I). The cadre of Assistant Station Masters was one of such cadres. In pursuance of these orders, the number of posts in the three grades were revised as below:-

<u>Scale of pay</u>	<u>No.of posts before restructuring</u>	<u>No.of posts after restructuring</u>
Rs.330-560	464	108
Rs.425-640	306	207
Rs.455-700	60	452

The restructuring of the cadres was ordered to be with reference to the sanctioned cadre strength as on 1.8.1983 and the staff was to be placed in the revised grades in terms of these orders, was made eligible to draw pay in higher grade from 1.8.83 with the benefit of proforma fixation from 1.8.82. The grievance of the applicants is that restructuring orders have not been properly implemented in Delhi Division of the Northern Railway in the cadres to which they belonged. Accordingly, they have prayed for a direction to the respondents (i) to implement the orders of restructuring as contained in Annexure-I; (ii) to promote/place the applicants in the grades to which they are entitled when the percentage ratio as fixed in Annexure-I order is implemented; and (iii) to pay arrears with effect from 1.8.93 and fix their pay duly giving them benefit of proforma fixation with effect from 1.8.1982.

2. The respondents have contested the OA by filing a return. However, no rejoinder has been filed within the time allowed.

3. We have perused the material on record and heard the learned counsel for the applicants. None was present on behalf of the respondents. The grievance of the applicants revolves round the point of benefit of upgraded posts in the resultant vacancies as a result of upgradation of certain posts from one grade

to another. We may, therefore, refer to the relevant orders of the Railway Board on the subject of restructuring issued on 29.7.83, a copy of which has been annexed by the applicants as Annexure-I to the OA. These orders clearly state that "The benefit of proforma fixation will be admissible only to those staff, who are placed in the vacancies arising directly as a result of these restructuring orders". It was directed that the orders should be implemented completely in all respects by 30.9.83. The Northern Railway Headquarters office in their letter dated 22.9.83 (Annexure R-I to the counter-reply) addressed to all the Divisional Railway Managers of the Northern Railway inter alia clarified that re-fixation of pay from 1.8.82 and payment of arrears from 1.8.83 consequent upon the restructuring of the various grades will be applicable to the new posts upgraded and will not apply to the resultant vacancies. The basic contention of the applicants is that when as a result of increase in the number of posts in the grade of Rs.455-700 from 60 to 452 ~~and~~ the persons in the grade of Rs.425-640 were given the grade of Rs.455-700, those in the grade of Rs.330-560 should have been given the grade of Rs.425-640 to the extent the vacancies became available in that grade. The stand taken by the respondents is that the contention of the applicants amounts to giving the benefit of upgraded posts in pursuance of the restructuring in the cadre even in respect

of resultant vacancies which is not permissible either under the orders issued by the Railway Board on 29.7.83 or under the clarification issued by the Northern Railway in their letter dated 22.9.83, which has been referred to above. It is specifically contended by the respondents that the number of posts in the grade of Rs.425-640 after the restructuring of the cadre came down from 306 to 270. As such the question of giving the higher grade of Rs.425-640 to the existing incumbents in the scale of Rs.330-560 did not arise as a result of the restructuring of the cadre. This is ^{C. correct} ~~the very contention~~ in terms of the orders issued by the Railway Board and the Northern Railway which have been referred to above. The upgradation of incumbents ^{C. working} ~~holding~~ in the grades of Rs.425-640 to Rs.455-700, the posts which fell vacant in the grade of Rs.425-640 can only be said to have accrued as a result of the restructuring of the cadre, but the benefit of upgradation in terms of the restructuring orders would not be admissible to resultant vacancies.

4. Promotion orders on the resultant vacancies in the cadre of Assistant Station Masters in the Delhi Division of the Northern Railway were issued on 12.8.85 (Annexure-II), as per the averment of the applicants and the persons promoted against the resultant vacancies were given the benefit of the higher scale from the date they assumed charge of the post in the grade of Rs.425-640. However, in terms of Railway Board's letter No.P.C.111-81/F.E-11/4 dated 27.6.85 (Annexure-IV), it was decided that wherever implementation of the restructuring orders has been delayed resulting

in benefits being given after 1.1.84 to chain/resultant vacancies, the benefit should be given uniformly with effect from 1.1.84. This was carried out by the Northern Railway. Thus the net result is that the benefit of notional fixation of pay with effect from 1.8.82 and payment of arrears with effect from 1.8.83 to the incumbents of the upgraded posts in pursuance of the orders of restructuring of cadres was given to the incumbents of the upgraded posts after their selection and promotion in accordance with the restructuring orders but the benefit of upgraded posts to those who were promoted in resultant vacancies was given with effect from 1.1.84. This has been uniformly done in the seniority unit of the Delhi Division of the Northern Railway to which the applicants belong.

5. The applicants have, however, contended that ~~the other Divisions of the Northern Railway~~, the benefit of upgradation had been given with effect from 1.8.82 and 1.8.83 even to the resultant vacancies in the other Divisions of the Northern Railway as well as in other Zonal Railways. As regards the other Divisions of the Northern Railway, the respondents rebutted this averment. In respect of the other Railways, the applicants have placed at Annexure-VI to the OA, a copy of the C.P.O., S.C.Rly letter dated 31.1.84, the relevant portion of which is extracted as below:-

" It is clarified that the cadre of SMS/ASMs which has been quoted in your letter is restructured according to the figures indicated therein with effect from 1.8.83. All the staff according to their seniority and eligibility will get fitted into the revised structure and all of them will get proforma benefit of fixation from 1.8.82, and actually effected from 1.8.83. In restructuring the cadre, the question of resultant/consequential vacancies does not arise".

In their reply on this point, the respondents have submitted that the authenticity of the letter said

to have been issued by the C.P.O cannot be verified by the respondents, and that the respondents in the present application are not governed by any instructions of the S.C.Railway, but they are governed by the Northern Railway's GM's office. They have also relied on para 2 of Railway Board's letter dated 29.7.83 which may be extracted as below:-

" Thus restructuring of the cadres will be with reference to the sanctioned cadre strength as on 1st August'83. The staff, who will be placed in the revised grades in terms of these orders, will be eligible to draw pay in higher grade from 1.8.83 with the benefit of proforma fixation from 1.8.82. The benefit of proforma fixation will be admissible only to those staff, who are placed in the vacancies arising directly as a result of these restructuring orders. Pay of the staff, who have been promoted in the normal course to higher grades during the period 1.8.82 to 31.7.83, will be stepped up under the normal rules, with reference to the pay of their juniors, whose is fixed under these orders."

6. As we have already discussed above, the orders of the Railway Board are very clear that the benefit of proforma fixation will be admissible to only those staff, who are placed in the vacancies arising directly as a result of these restructuring orders. In view of these orders, we are unable to find any fault with the action taken by the Delhi Division of the Northern Railway.

7. In the light of the foregoing discussion, we

do not find any merit in this OA and the same is accordingly dismissed, leaving the parties to bear their own costs.

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)

(P.C. Jain)
(P.C. JAIN)
MEMBER(A)

SNS