

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



O.A.No.1704/2004

Wednesday, this the 18th day of October 2006

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri N.D. Dayal, Member (A)

Shri P.R. Narayanan and others

...Applicants

(By Advocate: Shri BS Mainee)

Versus

Union of India through

1. The Chairman
(Railway Board)
Ministry of Railways
Rail Bhavan, Raisina Road
New Delhi-1
2. The Secretary
Ministry of Railways
(Railway Board)
Rail Bhavan, Raisina Road
New Delhi-1
3. The Managing Director
Rail India Technical & Economic Service Ltd.
RITES Bhawan, Sector-29
Gurgaon, Haryana

..Respondents

(By Advocate: Shri VSR Krishna)

1. To be referred to the Reporters or not? *yes*
2. To be circulated to outlying Benches or not? *yes*

S. Raju
(Shanker Raju)
Member (J)

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1. Shri P.R. Narayanan
E-9 Poorti Apartments
Vikas Puri
New Delhi-18
2. K.V. Rangayya
3. J.L. Malhotra
4. R.L. Mehta
5. B.L. Gulati
6. K.S. Johar
7. P.R. Sircar
8. Mrs. S.K. Sharma
9. V.S. Kalra
10. S.K. Chugh
11. Puran Chand
12. P.S. Srivastava
13. Mrs. Rita Handa
14. M.S. Sharma
15. S.K. Duggal
16. Ramesh Chitkara
17. K.J. Chauhan
18. B.S. Bhatnagar
19. K.K. Malhotra
20. R.S. Khanna

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ORDER (ORAL)

Hon'ble Shri Shanker Raju, Member (J):

Retires in Railways, who have completed 20 years of service and to whom on relaxation the pro-rata benefits have been granted, seek extension of benefit of complimentary passes as well as medical facilities. This has been turned down by the respondents on the ground that as per the decision of the Apex Court in CA-8327/97 in **Union of India & another v. Dr. S. Baliar Singh**, it is ruled that if one does not complete 20 years of railways, complimentary passes would not be admissible. Accordingly, it is contended that the relaxation, which has been accorded would also good for pro-rata pension and in the wake of statutory rules, applicants not being eligible cannot be accorded the benefits.

2. Learned counsel for applicants placing reliance on a decision of the Apex Court in **Welfare Association of Absorbed Central Government Employees in Public Enterprises & another v. Union of India & another**, (1996) 2 SCC 187 contended that it is ruled that

erstwhile government servant on absorption in public undertakings if on commutation pension is restored after 15 year, they are to be treated as pensioner and in such an event, the service rendered in public undertaking would have to be reckoned as a qualifying service and that would make the service as 20 years. In that event, the applicants would be entitled not only to the complimentary passes but also to medical facilities.

3. Learned counsel for applicants also relied upon the decision of the Apex Court, on review, in **Welfare Association of Absorbed Central Government Employees in Public Enterprises & another v. Arvind Verma & others**, (1999) 9 SCC 58 to contend that a clarification has been issued that the respondents are liable not only to restore the pension as a Central Government pensioner but also all attendant benefits. In such view of the matter attendant benefits would include not only the complimentary passes but also the medical facilities.

4. As regards medical facilities, two decisions of the Tribunal, i.e., in **T. R. Raghavan v. The Secretary to Govt. of India** (OA-747/2002) decided on 20.2.2003 (Principal Bench) and in **P. Muralidhara Rao & others v. Union of India & others** (OA-1547/2003) decided on 1.9.2004 have been placed reliance where relying upon the decision of the Apex Court in **Welfare Association of Absorbed Central Government Employees in Public Enterprises** (supra), one of the attendant benefits, i.e., medical reimbursement has been allowed to the Central Government employees. It is accordingly stated that being covered, on all fours, by the ratio aforesaid, applicants are also entitled to the relief prayed in the present OA.

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5. We have carefully considered the rival contentions of the parties and perused the material placed on record.

6. Rule 107 of Railway Servant (Pension) Rules, 1993 lays down the power of relaxation of any of the provisions, which causes undue hardship in a particular case, i.e., with the prior concurrence of DOPT.

7. However, if the stand of the Government, though may be based on the decision of the Apex Court in **Dr. S. Baliar Singh** (supra) where the question of relaxation has been dealt with separately, confirms in the present case as well, power of relaxation has been exercised but on rejection the claim was turned down, whereas in the present case, the claim of the applicants has not been considered, insofar as relaxation of the provisions of the rules for entitlement of complimentary passes and medical reimbursement is concerned.

8. As far as decision in **Welfare Association of Absorbed Central Government Employees in Public Enterprises** (supra) is concerned, a clear ruling to the effect in review that on restoration on computation of pension, one has to be treated as a pensioner with all attendant benefits is an additional piece of material, which is now available and which could be considered by the respondents as a binding precedent to process on re-examination the claim of the applicants for grant of complimentary passes and medical reimbursement. The decision of the Tribunal on medical reimbursement having relied upon by the aforesaid dicta, squarely covers the claim in the present case and *mutatis mutandis* be extended to the applicants as well.

9. For the foregoing reasons, this OA is partly allowed. Respondents are directed to reconsider the claim of the applicants in the light of the decision of the Apex Court in **Dr. S. Baliar Singh's** case (supra) and also the decisions of coordinate Benches of the Tribunal (supra), which has attained finality to process the claim of the applicants in relaxation of the provisions for grant of not only the complimentary passes but also the medical facilities be accorded to them. This shall be culminated into a reasoned and speaking order to be issued within three months from the date of receipt of a copy of this order. In the event of entitlement, the applicants shall be made admissible all consequential benefits. No costs.


(N.D. Dayal)
Member (A)


(Shanker Raju)
Member (J)

/sunil/