

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/01195/2014

Date of order: 27.01.2021

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Mrs. Buddheswari Devi,
W/o Jadunath Mahato,
Aged about 54 years,
Residing at Near Silli Rly. Station,
P.O. – Silli,
Dist. – Ranchi,
Jharkhand,
Pin – 835 102.

..... Applicant

- V E R S U S -

1. Union of India,
Through the General Manager,
S.E. Railway,
Garden Reach,
Kolkata – 700 043.
2. Sr. Divisional Personnel Officer,
Ranchi, S.E. Railway,
P.O. – Ranchi,
Jharkhand,
834003.
3. Sr. Divisional Electrical Engineer (TRD),
Ranchi, S.E. Railway,
P.O. – Ranchi,
Jharkhand,
834003.

.... Respondents

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Ms. S. Chowdhury, Counsel

ORDER (Oral)

Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(a) An order do issue directing the respondents to treat the husband of the applicant as a Tower Wagon Driver and to grant all consequential benefits."

2. Heard both Ld. Counsel, examined pleadings and annexed documents. No rejoinder is placed on record.

3. The applicant's claim is that her husband was working as a Tower Wagon Driver at Muri, and, while working as such, he was sent for a periodical medical test, where he was declared medically fit in A1 category with two pairs of glasses for NV and DV on shunting engine only.

He was thereafter decategorised and posted as Sr. Technician/MCM/TRD vide Office Order dated 28.6.2010. In spite of issue of such order, it was not given effect to and the ex-employee was allowed to only work as Tower Wagon Driver. On 22.3.2011, however, another order was issued in which it was stated that the husband of the applicant was medically decategorised and posted as MCM.

The ex-employee retired from service w.e.f. 28.2.2012 and subsequently expired on 30.8.2013.

The applicant would claim running allowance for the period from 28.6.2010 till 22.3.2011 which allegedly was not granted in favour of the



ex-employee after being declared fit in A2 category. The applicant would also allege that the posting of her husband as MCM is not sustainable in the eyes of law.

4. The respondents, per contra, would argue as follows:-

That, the husband of the applicant, Late Jadu Nath Mahato was working as Tower Wagon Driver (MCM) / Muri. In course of a periodical medical examination, he was found as fit in A/1 medical category only with two pairs of glasses for NV & DV only in shunting work. As there was no post of shunting engine work in the TRD Branch of Elect. Deptt., and, as, it was further intimated that the employee has been found to be unfit in A/1 but fit in A/2 category, he was posted in an alternative post as MCM (OHE) under SSE (OHE) Muri.

His pay was fixed at Rs. 24000/- taking into account the Running Allowance element of 30% in Pay Band Rs. 9300-34800/- with GP Rs. 4200/- w.e.f. 26.3.2011 - the date of his joining as MCM (OHE) under SSE (OHE) Muri. Hence, the respondents would contest that the claim of the widow applicant, is misconceived.

5. Upon perusal of annexed documents, it transpires that an order was issued on 28.6.2010 vide which Shri Jadunath Mahato was medically decategorised after having been screened on 8.6.2010 and was declared fit for the post of Sr. Tech in Electricity (TRD) (Annexure A-1 to the O.A.), and, that, upon medical re-examination, he was considered fit for A1 with two pairs of glasses for NV & DV on Shunting Engine Only. The applicant was, however, decategorised as fit as Sr. Technician/MCM/TRD, and posted at MCM (OHE) vide orders dated 22.3.2011 (Annexure A-2 to the O.A.). Admittedly, the applicant was in



receipt of this order as it has been annexed in the O.A. He was also in service till 28.2.2012. We do not, however, find any record of his challenge to the said posting order of MCM (OHE) either during his service career or even after his superannuation till his demise in August, 2013. Further, while the respondents have categorically affirmed on affidavit that the applicant's pay was fixed at Rs. 24,000/- taking into account the running allowance element of 30% in Pay Band Rs. 9300-34800/- with G.P. of Rs. 4200/- w.e.f. 26.3.2011 i.e. his date of joining as MCM (OHE), the applicant has filed no rejoinder disputing the same. Hence, any claim, challenging the irregularity of medical decategorization in A2 cannot be reopened at this stage.

6. His widow, however, has disputed that he was neither substantively posted as a Tower Wagon Driver or paid running allowance during the period 28.6.2010 to 22.3.2011 although he had performed the duties of a Tower Wagon Driver during this period. The applicant, would, also furnish Annexure A-2, which records the particulars of the ex-employee's duties during the period 1.3.2011 to 25.3.2011.

7. As the applicant has been contending that the ex-employee was entitled to running allowance while working as Tower Wagon Driver, a fact not disputed by the respondent authorities, the respondent authorities are directed to examine the contents of representation at A-3 to the O.A. to decide as to whether the ex-employee was entitled to any running allowance during the period 28.6.2010 to 22.3.2011, as admittedly the ex-employee functioned as a Tower Wagon Driver during this period. In the event the claim is found as justified, the arrears of such running allowance should be released to the applicant.

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The entire exercise may be completed within 16 weeks from the date of receipt of a copy of this order.

7. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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