

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH

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O.A.No. 350/250/2019  
MA 142/2019

Date of Order: 20.01.2021



Coram: Hon'ble Mr. Tarun Shridhar, Administrative Member

1. Kamala Kanta Pandey,  
Son of Late Kedar Nath Pandey,  
Aged about 65 years,  
Ex Tech Grade-I, under SSE (C & W),  
Santragachi, Kharagpur Division,  
South Eastern Railway,  
Residing at 'Ganapati Apartment' (First Floor),  
56, 1<sup>st</sup> Bye Lane, A.T. Ghosh Road, GIP Colony,  
Post Office & Police Station – Jagacha,  
District – Howrah, Pin – 711112.
2. Dipali Das,  
Wife of Late Sadhan Chandra Das,  
Aged about 58 years,  
Residing at Mandir Para,  
Post Office & Police Station – Jagacha,  
District – Howrah, Pin – 711112.

..... Applicants

- VERSUS -

1. Union of India,  
through the General Manager,  
South Eastern Railway,  
11, Garden Reach Road,  
Kolkata – 700 043.
2. The Chief Personnel Officer,  
South Eastern Railway,  
11, Garden Reach Road,  
Kolkata – 700 043.
3. The Divisional Railway Manager,  
Kharagpur Division,  
South Eastern Railway, Kharagpur,  
Paschim Midnapur,  
Pin – 721301.

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4. The Senior Divisional Personnel Officer,  
Kharagpur Division,  
South Eastern Railway, Kharagpur,  
Paschim Midnapur,  
Pin – 721301.

5. The Senior Divisional Electrical Engineer,  
Kharagpur Division,  
Paschim Midnapur,  
Pin – 721301.

..... Respondents

For the Applicant : Mr. S.N.Sukul, Counsel

For the Respondents : Ms. S.Chowdhury, Counsel

**ORDER (Oral)**

**Tarun Shridhar, Administrative Member:**

The applicants are aggrieved by the denial of the benefit of promotion and higher pay fixation to the applicant No.1 and the late husband of applicant No.2, herein after subsumed in the term applicants in this order, on account of the cadre restructuring in accordance with the Board's Order, RBE No. 102/2013, dated 08.10.2013. Vide this Order, staffs of various categories were restructured and, as a result, several other staffs got placed in higher grade. However, before the applicants could avail the benefit of higher post and pay according to the provisions of the circular, they retired from service.

2. Ld. Counsel for the applicants vehemently argues that it is clearly laid down in Article 1 of the Order that this will take effect from 01.11.2013 and this particular date is also the cut off date for granting the benefit of this restructuring to persons who are working in a particular cadre on this date. Since, the applicants were eligible on this particular date as they were working in a

particular cadre, they would have been accorded the benefits of this cadre restructuring prior to his retirement which took place on 31.12.2013.


3. This matter was earlier agitated in this Tribunal vide O.A. 950/2018 and vide order dated 28.09.2018, the applicants were allowed to make a comprehensive representation to the respondents and the respondents were directed to consider the same as per extant rules and regulations and pass a reasoned and speaking order. It is this speaking order passed by the Principal Chief Personnel Officer of S.E.Railways dated 03.12.2018, which has been challenged in this O.A.

4. Ld. Counsel for the applicants emphatically states that Article 4.7 of the Board's Order is crystal clear in stating that all employees who retire or resign or expire between the period from the date of effect of the circular to the actual implementation will be eligible for the fixation benefits and its arrears. For the sake of clarity, this Article is being reproduced below:

*"Employees who retire/resign or expire in between the period from the date of effect of these orders to the date of actual implementation of these orders, will be eligible for the fixation benefits and arrears under these orders w.e.f. 01-11-2013, if they are otherwise eligible for the said benefit."*

He rests his case primarily on this Article and states that there is absolutely no scope for denial of the benefits.

5. Ld. Counsel for the respondents, on the other hand, draws particular attention to a provision contained in Article 4 of this Board Order, which *inter alia* states that "in the case of Artisan staff, the benefit of restructuring under these orders will be extended only on passing the requisite Trade Test". She reiterates what has also been categorically mentioned in the reply that since the applicants'





had already retired and they did not fulfill this condition of having passed the Trade Test, they would not be entitled to the benefit of the said Board Order. The Chief Personnel Officer in his speaking order dated 03.12.2018 has also dealt with this issue on the same lines and states that after certification of revised cadre strength by the Accounts, circular for conducting Trade Test was issued on 06.12.2013 and, subsequently, test was conducted on different dates. Since the applicants had already retired before the requisite tests, they could not be granted any benefits of the Board's Order regarding cadre restructuring. However, this order states that a clarification was also sought from the Railway Board whether restructuring benefits can be extended to those persons who had retired from Railway service between 01.11.2013 and actual implementation of the order and, in reply, the Railway Board vide dated 13.08.2018 had clarified that the benefit of restructuring will be extended to Artisan staff only on passing the requisite Trade Test and the staff who had already demitted office without passing requisite Trade test will not be allowed this benefits. On these grounds, the representation was rejected.

6. Ld. Counsel for the applicants would further argue that the provision of Trade Test will only be applicable to the staff already in service and the applicants having retired had no opportunity to undergo this Trade Test.

7. I have heard the Ld. Counsels for the parties, at length, and carefully gone through the records of the case.

8. No doubt, the applicants were eligible on 01.11.2013, which was the cut off date for eligibility to obtain benefits of Cadre Restructuring Scheme, however, we cannot ignore the fact that there was a mandatory requirement of passing Trade

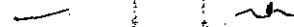




Test before availing the promotional and financial benefits. Although, the Ld. Counsel for the applicant has strongly argued that the applicants' case would be covered under Article 4.7 and not Article 4 as there is no way the applicants could have fulfilled this obligatory requirement of passing the Trade Test, I would not be convinced by this argument. There is no ambiguity in the provisions of Board's Order. While the applicants do fulfil the eligibility of having held the relevant position on the cut off date of 01.11.2013, they fail to meet the condition attached to this eligibility, i.e. of having passed the requisite Trade Test.

They may be considered unfortunate to have little time left for retirement at the time of this Board's Order and, hence, not able to appear in the Trade Test and avail the benefits of promotion but they have to accept this position that a mandatory requirement mentioned in the rules cannot be ignored.

9. The O.A. is, accordingly, dismissed. MA 142/2019 for joint prosecution also stands disposed of. No costs.

  
(Tarun Shridhar)  
Member (A)

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