

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/01322/2021

Date of order: 15.9.2021

Present : Hon'ble Dr. Nandita Chatterjee, Administrative Member

Jagat Narayan Singh,
Son of Jamader Singh,
Aged about 61 years,
Worked as Ex-SSE (Signal),
Tamluk,
Residing at HN, 1115/5, Gopal Nagar,
Jhapetapur, Kharagpur,
Dist - West Medinipur,
Pin - 721301 (Mob. No. - 9775737856)

.... Applicant

- V E R S U S -

1. Union of India,
Through the General Manager,
South Eastern Railway,
Garden Reach,
Kolkata - 700 043.
2. The Pr. Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Kolkata - 700 043.
3. Divisional Railway Manager,
S.E. Railway,
Kharagpur,
PO + P.S. - Kharagpur,
Dist. - Paschim Medinipur,
Pin - 721301.
4. The Sr. Divisional Personnel Officer,
S.E. Railway,
Kharagpur,
P.O. + P.S. - 721301.

.... Respondents

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For the Applicant : Ms. P. Mondal, Counsel

For the Respondents : None

ORDER (Oral)

Per 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 respondent Nos. 1 and 2 to issue directions to the Competent Authority to grant scope of switching over to Old Pension Scheme in favour of the applicant and thereby according approval to the case of the applicant on immediate basis for extending and effecting coverage of his case under Central Civil Services (Pension) Rules, 1972 in place of National Pension System.
- (b) To grant costs and incidentals.
- (c) Any other order or orders as the Hon'ble Tribunal deems fit and proper."



2. Heard Ld. Counsel for the applicant, affidavit of service is taken on record. As none appears for respondents despite affidavit of service, Rule 16(1) of CAT (Procedure) Rules, 1987, is invoked and this matter is taken up at the admission stage for disposal.

3. Ld. Counsel for the applicant would submit that the applicant had responded to an Employment Notice of 2002 for consideration of his candidature for Apprentice (Section Engineer). He appeared in the selection process comprising a written test in January, 2003, and, thereafter, his documents were verified in October, 2003. On December, 2003, he was informed that he had been provisionally selected for appointment but his appointment letter was issued to him on 6.5.2004.

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Ld. Counsel for the applicant would submit that the right to receive pension upon superannuation is a basic condition of service whose applicability would depend on the point of time of declaration of vacancies/notification of posts, and, that, such terms cannot be altered to the prejudice of the employee after his appointment.

That, the applicant had preferred representations starting from 26.5.2020 (Annexure A-6 to the O.A. collectively), seeking the benefit of the Government of India notification dated 17.2.2020, which extended the benefit of coverage under CCS (Pension) Rules, 1972 to those employees whose selection for appointment was finalized before 1.1.2004.

The applicant is aggrieved that despite his timely representations seeking benefit of the Office Memorandum, no decision has been received from the respondent authorities, and, being aggrieved, he has approached this Tribunal.

Ld. Counsel for the applicant, would, therefore, pray that the authorities be directed to decide on his representation in accordance with the O.M. of DOP&T dated 17.2.2020 read with various judicial pronouncements in this regard.

4. Ld. Counsel for the applicant would refer to the judgment of the Hon'ble High Court of Delhi in **W.P. (C) . 8208 / 2020 (M.R. Gurjar & ors. v. Union of India & ors.)** and other batch cases and would cite that the Hon'ble Apex Court had upheld the decision in one of the **W.P. (C) . 11097/2019 (Amar Kumar v. Union of India & ors.)** as decided by the Hon'ble High Court at Delhi (Annexure A-5 to the O.A.)

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Accordingly, the applicant being a similarly circumstanced employee, would seek support of such judgment.

Ld. Counsel would also refer to the decision of Hon'ble High Court of Delhi in **W.P. (C). 1569/2021 (Jaswinder Singh & ors. v. Union of India & ors.)** (Annexure A-5 to the O.A. collectively) to advance further support towards his claim.

5. Lately the Hon'ble Apex Court in **UI vs Shabad Prakash Punia SLP(C) No. 7373/2021** has affirmed the decision of the Hon'ble High Court of Delhi in WP 9252/2020, granting benefits under Old Pension Rules of 1972 to persons selected against vacancies of pre 01.01.2004 even where selection was completed after 01.01.2004 i.e. after the effective date of New Pension Scheme.



6. At hearing, Ld. Counsel for the applicant would submit that he would be fairly satisfied if a direction is issued to the competent authority to consider the case of the applicant in the light **UI vs. Shabad Prakash Punia (supra)**, within a time bound manner.

7. Accordingly, this O.A. is disposed of with a direction upon the competent authority to consider the case of the applicant in the light of the judgment supra, and decide the claim of the applicant in accordance with law within a period of 3 months from the date of receipt of copy of this order. In the event the applicant deserve the relief as prayed for, an appropriate order in accordance with law be issued within the said period.

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8. It is made clear that this Tribunal has we have not entered into the merits of this matter and, therefore, all points are kept open for consideration

9. This OA accordingly stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

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Dr. Nandita Chatterjee
Administrative Member