

A2  
RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration T.A.No.460 of 1986 (O.Suit No.373 of 1983)

Ishwar Dutt Sharma .... Plaintiff.

Vs.

Union of India .... Defendant

Hon. Ajay Johri, AM  
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

This original suit for a declaration that the plaintiff is entitled to be upgraded as Driver grade 'A' in terms of letter no.PC III/79/PS-3117 dated 17.7.81 of the Railway Board with consequential benefits has been received by transfer from the Court of 1st Additional Munsif Saharanpur under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The case of the plaintiff is that he was officiating as Driver grade 'B' in the Northern Railway since 1980 and was confirmed by the defendant as such vide letter dated 22.2.1981. With effect from 1.6.1981 the cadre of running staff was restructured whereunder all drivers working on passenger trains in grade 'B' were upgraded as Drivers grade 'A' under the letter dated 17.7.1981 of the Railway Board. The plaintiff, therefore, claims his upgradation under that letter w.e.f. 1.6.1981 with all benefits. As he was not upgraded on the due date he made several representations and was thereafter upgraded w.e.f. 23.10.1982. Aggrieved by this, he filed the present suit for giving him upgradation w.e.f. 1.6.1981 with all consequential benefits.

A2  
1/2

3. The defendant has contested the suit and in the written statement filed on its behalf, it has been stated that the plaintiff was officiating as driver grade 'B' at Jind in June 1981. According to letter dated 24.2.1982 of the Divisional Personnel Officer New Delhi only 226 posts of the drivers were upgraded as driver grade 'A' and as 69 persons were already working in the Division as driver grade 'A' on 1.6.1981, only 157 drivers grade 'B' were upgraded according to their seniority. As the plaintiff could not come within the <sup>range</sup> ~~limit~~ of seniority, he could not be upgraded at that time and was later on upgraded. The contention raised by him to contrary is not correct and his representations were rightly rejected.

4. At the time of arguments before us, the learned counsel for the plaintiff contended that there was neither a question of any limit nor of seniority in making upgradation in accordance with the Railway Board's letter dated 17.7.1981 and his claim for upgradation from the due date was wrongly ignored by the defendant. On the other hand, learned counsel for the defendant placed his reliance on the letter dated 7/14.1.1982 of DPO New Delhi giving the revised strength of drivers grade 'A'. It is paper no. 40-C on record and shows that formerly there were only 69 drivers grade 'A' in Northern Railway but w.e.f. 1.6.1981 their strength was enhanced to 245. This letter does not bear out the stand taken out by the defendant in para 8 of its written statement that only 226 posts of driver grade 'A' were to be upgraded in Delhi Division in which the plaintiff was working at that time. The defendant has also not filed any

A2  
3

.3.

seniority list or any other order in support of its plea that 157 drivers grade 'B' were upgraded according to the seniority and the plaintiff was left out as he did not come within the eligible limit.

5. Paper no.42-C is the copy of the relevant letter dated 17.7.1981 of the Railway Board. The item at sl.no.2 of this letter, which is relevant for the purpose of this case runs as follows :-

" Loco Running Staff:-

<u>S.no.</u>	<u>Category</u>	<u>Scale of Pay (RS)</u>	<u>Remarks</u>
1.	xxxx	xxx	xxx
2. Passenger Drivers	550-700		For all other passenger services irrespective of distance (the existing Gr.'B' Drivers working passenger trains other than super fast Mail Expressed & Long distance in scale Rs.425-640 will be upgraded to the scale of Rs.550-700 (RS)."

6. Serial no. 1 of this letter relates to passenger drivers of grade 'A' special and provides that they are to be attached to super fast, mail and express trains as per the existing position. Sl.no.2 quoted above unequivocally lays down that for all other passenger services, irrespective of the distance, the existing grade 'B' drivers working in passenger trains will be upgraded. Any interpretation made to the contrary, in our opinion, is not correct. The DPO was, therefore, not justified in fixing any number of drivers covered under this circular letter and all the drivers grade 'B' working on passenger trains were to be upgraded as drivers grade 'A' in the higher pay scales w.e.f. 1.6.1981.

AP/1A

.4.

7. In para 2 of his plaint it has been alleged by the plaintiff that he was officiating as driver grade 'B' since 1980 and was confirmed as such vide letter dated 22.2.1981. In para 2 of its written statement, the defendant has stated that it is admitted that the plaintiff was officiating as driver grade 'B' vide letter dated 21.1.1981 at Jind and the rest is not admitted. The defendant thus merely disputed the confirmation of the plaintiff on the post of driver grade 'B' but did not dispute the fact that atleast from January 1981, the plaintiff was officiating as driver grade 'B'. It is not the case of the defendant that the plaintiff was working as driver grade 'B' merely in some stop-gap arrangement and he was not the driver grade 'B' at the relevant time. On the other hand, the allegations made in para 8 of the written statement clearly show that the plaintiff was fit to be considered for upgradation according to <sup>the</sup> letter of the Railway Board in question but he could not be given its benefit because of his low position in the seniority list. It is thus amply clear that the plaintiff was officiating as driver grade 'B' and running the passenger trains. He was, therefore, wrongly denied the benefit of the upgradation w.e.f. the due date 1.6.1981. The defendant has not been able to justify its action before us.

8. We accordingly hold that the plaintiff was entitled to upgradation as driver grade 'A' w.e.f 1.6.1981 with all consequential benefits. The

AP2  
15

.5.

suit is disposed of accordingly without any  
order as to costs.

~~23/7/87~~  
Member (A)

*S. M. S. M. S.*  
23/7/87  
Member (J)

Dated July:23 , 1987  
kkb