

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 643 of 1992

Ashok Kumar Gupta

Petitioner

Versus

Union of India and Ors

Respondents

CORAM:

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

HON'BLE MR. V.K. SETH, MEMBER(A)

( By Hon. Mr. Justice R.K. Varma, V.C. )

By this petition filed Under Section 19 of the Administrative Tribunals Act 1985, the petitioner has sought a direction to the respondents to increase his pay scale Rs 1600-2660(RPS) w.e.f. 15.5.87 with all consequential benefits including arrears, seniority etc, on the pattern of orders/judgments in(O.A. No. 322/88, P.B. Samuel and Ors Vs. Union of India & Ors ) and (O.A. No. 488 of 1987, Michael E. Peters Vs. Union of India & anr) and ( O.S. No. 20 of 1989 in N.A. Khan & Ors Vs. Union of India & Ors), and In Registration Case No. 777/91 decided by this Bench on 4.10.91.

2. The facts giving rise to this petition briefly stated, are as under:-

The petitioner was initially appointed as Parcel Clerk. He was subsequently selected and appointed as Enquiry & Reservation Clerk on 22.4.82. The petitioner was then selected and appointed as Commercial Apprentice against 10% Graduate quota in the year 1983. After completion of the prescribed course and different line training, as per schedule of training, the petitioner was posted as Chief Booking Clerk in Northern Railway Allahabad on 27.2.85 in the scale <sup>Rs. of pay</sup> Rs.455-700(Revised Rs 1400-2300)

3. The petitioner has been appointed as Commercial Apprentice in the same grade of Rs. 455-700(1400-2300(RPS)).

4. The Railway Board issued a Circular dated 15.5.87 (Annexure A-1 to the petition) to the General Managers of all Indian Railways on the subject of recruitment of Traffic/Commercial Apprentices. The said circular contains the decisions of the Railway Board enumerated in 15 clauses. The decision contained <sup>in</sup> clause(2) lays down that in future the recruitment of Traffic and Commercial Apprentices should be made to ~~the~~ <sup>grade</sup> ~~scale~~ <sup>of Rs.</sup> Rs.550-750/1600-2660(RP). In Clause 15 of the Board's decision, it is stated that Traffic/Commercial Apprentices working in the lower scale of Rs 455-700(RS)/1400-2300(RP) and 470-750(RS)/1400-2600(RP) on getting selected for recruitment in the higher scale of Rs.550-2660(RP) as per the above provisions, will not be required to be sent for training again. They will, however, have to appear for and qualify the final retention test along with their batch mates and their seniority will be regularised as per normal rules alongwith other candidates in their batch

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5. It is the case of the petitioner that there is no substantial difference in qualifications and training in the existing rules prior to issue of the circular of Railway Board dated 15.5.87 on the subject of recruitment of Traffic/Commercial Apprentices. As such, there has been a discrimination amongst Commercial Apprentices who were selected prior to 15.5.87 and those selected after 15.5.87 in respect of their pay-scale. The Commercial Apprentices selected after 15.5.87 were given initial pay scale of Rs.1600-2660(RS) but this benefit was not extended to other Commercial Apprentices selected prior to

15.5.87.

6. It has been submitted by the petitioner that the above discrimination was challenged before Madras Bench of C.A.T in(O.A. No. 322 of 1988 P.B. Samuel and Ors Vs. Union of India & Ors)and (O.A. No.488 of 1987 Michael E. Peters Vs. Union of India and anr)and the Tribunal in its decision directed the respondents, Union of India and Southern Railway as follows:

" We, accordingly direct that the benefits of revision of pay and fitment on absorption vide the Railway Board's circular No. E(NG)II/84/RC 3/15/(AIRF) dated 15.5.87 should be given to the applicants in both the O.As from 15.5.87 with consequent monetary benefits. This shall be done without putting them to any final retention test. We also direct that the fitment should be done and arrears disbursed within a period of 90 days from the date of receipt of this order".

An S.L.P(Civil)No.7553/90 filed before the Supreme Court against the said decision of Madras Bench of the C.A.T was dismissed by an order dated 23.7.90(Annexure A-3 to the petition).

7. Apart from the above decision of the Madras Bench of C.A.T, the petitioner has placed reliance on decision of this Tribunal in similar cases where the same view has been taken as has been taken by the Madras Bench of the C.A.T stated as above.

8. As such the petitioner has cited the decision of C.A.T Allahabad(Circuit Bench Lucknow) in N.A. Khan and Ors Vs. Union of India and Ors( O.A. No. 20 of 1989)(L) dated 7.1.91 (Annexure A-5 to the petition). Another decision of this Bench cited, is in Rajesh Kumar Srivastava and Ors Vs. Union of India and Ors(R.A No. 777 of 1991) dated 4.10.91(Annexure A-6 to the petition). An S.L.P(Civil) No. 4195/92 filed against the said

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decision of this Bench dated 4.10.91 was dismissed by an order of the Supreme Court dated 10.3.92(Annexure A-7 to the petition).

9. In its letter dated 15.5.87(Annexure A-1 to the petition), the Railway Board has noticed that in terms of the existing rules/orders 25% of the vacancies in the scales Rs. 455700/470-750(RS)/1400-2300/1400-2600(RP) in the category of Commercial Inspectors and in the operating categories of Station Masters, Yard Masters, Traffic Inspectors and Section Controllers, were filled by recruitment of commercial and Traffic Apprentices and out of this 15% was filled by direct recruitment from the open market and 10% by limited Departmental Competitive examination from amongst serving graduates in the traffic and commercial departments below the age of 40 Years.

10. By the said letter dated 15.5.87(Annexure A-1), the Railway Board has then reviewed the questions relating to recruitment of Traffic/commercial Apprentices, the scales in which such recruitments should be made, the qualifications and period of training etc and have taken decisions which run in 15 clauses. Some of the clauses which appear pertinent for deciding the basic question involved in this case are reproduced as under:-

- (i) The scheme of recruitment of Traffic and Commercial Apprentices should continue
- (ii) In future, the recruitment of these Apprentices should be made to grade Rs.550-750/1600-2600(RP). Traffic Apprentices absorbed in the cadre of section Controllers in scale Rs. 470-750/1400-2600(RP) be fixed at starting pay of Rs. 1600/- on absorption. The recruitment of Traffic Apprentices may be staggered in view of Sub-para(viii) below.

- (iii) The existing quota of 15% for open market recruitment and 10% for departmental candidates will continue to apply.
- (iv) The qualification for recruitment will continue to be graduation.....
- (vii) The standard of examination will be higher than is the case at present, having regard to the fact that recruitment will be in a higher grade.
- (viii) In future the period of training for Traffic Apprentices also will be two years *as against three years*, as is the case at present.
- (Xii) Apprentices already under training will be absorbed only in scale Rs. 455-700(RS)/1400-2300(RP) or 470-750(RS)/1400-2600(RP), as the case may be for which they have been recruited.
- (XV) Traffic/Commercial Apprentices working in the lower scale of Rs.455-700(RS)/1400-2300(RP) and 470-750/1400-2600(RP) on getting selected for recruitment in the higher scale of Rs.550-750(RS)/1600-2660(RP) as per the above provisions, will not be required to be sent for training again. They will however, have to appear for and qualify the final retention test along with their batchmates and their seniority will be regularised as per normal rules along with other candidates in that batch.

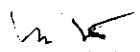
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11. In the decision made by the Madras Bench of the Central Administrative Tribunal in the cases of 'Samuel & Ors(Supra) and Michael E. Peters(Supra) ( O.A. Nos. 322/88 and 488/87). The said Tribunal has considered that the scheme of recruitment of Traffic and Commercial Apprentices is the same scheme continued with certain modifications to fit into the revised pattern of restructured cadres. The requirement of intensified broad based training in the new scheme for a period of 2 years instead of requirement of training for 3 years under the old scheme does not appear to make any significant difference so as to justify the difference in scales of pay of the Traffic and Commercial Apprentices under old and the new scheme, particularly when the Board's letter itself specifically exempts the earlier recruits from training again. The educational qualification

for recruitment continues to be graduation as in the case of the earlier scheme. On a careful consideration of all these aspects, the Tribunal came to the conclusion that it will not be proper to treat the Traffic and Commercial Apprentices recruited prior to the issue of the Railway Board's letter dated 15.5.87 and those recruited after as belonging to 2 different categories and as such, the petitioner's <sup>in the case of Samuel & Ors (long)</sup> who had been Apprentices under old scheme were held entitled to be given benefits of revision of pay and fitment on absorption as provided in the Railway Board's letter w.e.f. 15.5.87 with consequent monetary benefits without putting them to any final retention test. The decision of Madras Bench in the aforesaid two cases has been followed by this Bench in the earlier decisions named at the outset.

12. Accordingly, placing reliance on the decision of the Madras Bench in the case of 'Samuel and Ors (Supra)', this petition is allowed. The respondents are directed to fix the pay and allowances of the petitioner in the revised pay scale of Rs.1600-2660 w.e.f. 15.5.87 and to give all arrears of pay and allowances and other consequential benefits accruing to the petitioner. The respondents are further directed to settle the payment of arrears of pay and allowances on the revised scale of pay within a period of 3 months from the date of communication of this order.

13. There shall, however, be no order as to the costs.

  
Member(A)

  
Vice Chairman

Dated: Sept. 8<sup>th</sup>, 1993

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