

## CENTRAL ADMINISTRATIVE TRIBUNAL

## ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 17 day of November 2000.

C O R A M:- Hon'ble Mr. Rafiq Uddin, Member- J.  
Hon'ble Mr. S. Biswas, Member- A.

Orginal Application No. 1491 of 1994.

1. Om Prakash Sahu S/o Sri J.K. Sahu, Presently Posted as A.S.M. Sarsual, Kanpur.
2. Sant Ram Verma, S/o V.D. Verma, Posted as A.S.M. Chakeri Kanpur.
3. Jai Gopal Verma, S/o S. Prasad, Posted as A.S.M. Kanpur.
4. Anis Ahmad, S/o Mahboobullah, A.S.M. Allahabad.
5. Chedi Lal, S/o B. Lal, A.S.M. N.Rly., Brem Pur, Kanpur.
6. Sunil Kumar, S/o late B.P. Srivastava, A.S.M., N. Rly., Bindiki Road, Fatehpur.
7. M.C. Jaisawal, S/o late P.C. Jaisawal, A.S.M. Chanderi Kanpur.
8. Prdeep Kr. Mehortra, S/o N.S. Mehrotra, A.S.M., N. Rly., Karbiwan, Kanpur.
9. A.N Dubey, S/o P.N. Dubey, A.S.M. N. Rly., Jn. Allahabad.
10. Ram Kumar/S/o K. Prasad, A.S.M. N. Rly., Station Satnaraini, Distt. Fatehpur.
11. S.K. Srivastava, S/o R.S. Srivastava, A.S.M. N. Rly. Satnaraini, Distt. Fatehpur.

... Applicants

Counsel for the applicants Shri Arun Tondon

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versus

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1. Union of India through Ministry of Railways,  
New Delhi.
2. Railway Board, through its Chairman, New Delhi.
3. D.R.M. N. Rly., Allahabad.

... Respondents

Counsel for the respondents Shri A.K. Shukla

O R D E R

Hon'ble Mr. S. Biswas, Member-A

By way of this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has sought the following reliefs ::

i direction to the respondents for granting the scale of Rs. 1400 - 2300 to the applicants from the date of their completing 2 years of continuous appointment in the post of Asstt. Station Master vide Railway Board's order dated 27.07.87 and consequential financial benefits by way of arrears.

2. The petitioners were directly recruited as Asstt. Station Masters (ASM) on different dates between 1982 to 1986 on the basis of recruitment examination held by the Railway Service Commission for the purpose and posted at different stations. The common pay scale in operation on the dates they joined was Rs. 330 - 560 but revised w.e.f. 1.1.86 to Rs. 1200 to 2040.

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3. Vide Railway Board's letter dated 3.5.82 it was provided that safety category staff which included A.S.M. would be required to put in two years minimum service in each grade before promotion to next higher grade ---- Subject to arising of vacancies, further <sup>The condition was</sup> <sup>53</sup> relaxed vide Ministry's letter dated 7.10.83.

It may be observed that non of these letter and the order respectively dated 3.5.82 and 7.10.83 ~~and as~~ <sup>53</sup> averred in the OA were annexed.

4. Vide Railway Board's letter dated 12.09.85 (annexure A-1 to OA). The minimum period of 2 years in the lower grade of safety category for the purpose of promotion the higher grade was reduced to one year.

However, it is observed that in this order dated 12.9.85, Ministry's letter dated 26.5.94 has been cited. Therefore, the letter dated 12.9.85 is not an authentic document to be taken cognisance of .

5. Vide Railway circular dated 22.7.87 only 10% of the existing posts of A.S.M. was retained in the scale of Rs. 1200 - 2040 and 70% in the next higher scale of Rs. 1400 - 2300. As more than 10% of the incumbents were juniors to the applicants, the applicants were all entitled to the next higher scale of Rs. 1400 - 2300 by virtue of the circular dated 22.7.87 (annexure 2 to the OA compilation 2) and with regard to their date of appointment they should be given the higher grade in the year 1987 by one year relaxed rule in the lower grade . The Board instead debarred them from their due promotion on the ground that in 1988 the applicants were sent for

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P-16 training for years. In the result the applicants did not get the next higher <sup>scale</sup> when they became <sup>eligible</sup> for it. <sup>93</sup> vide circular dated 19.11.90 the said precondition of P-16 training was also withdrawn. The applicants made representations received by respondents office on 24.10.89 and again on 1.12.1990. Copy of the reference dated 19.11.90 and 24.10.89 is however not annexed to the OA. The applicants were sent for P-16 training as late as on the year of 1991 and on passing the test they were given the next higher scale only in 1992 when they were entitled to it from the year 1987 as mentioned earlier. The circular dated 22.7.87 is silent on any precondition like P-16 training. 10% of the posts in the lower scale 1200 - 2040 were always held by their juniors. Hence, they were denied of the next higher scale from due date illegally without any authority of rule or ~~institution~~ even the delay in sending them for p-16 training was not due to their fault and the same ~~was~~ said P-16 training was done away with by the Railway department w.e.f 10.11.90. Hence, the denial of higher scale is arbitrary

6. By another order dated 26.7.94 (annexure 1A to OA) issued by the respondents in pursuance of CAT's order in OA 1381 of 1992 in the case of O.P. Sahu and others 1381 ~~ak~~ Vs. U.O.I. & Ors dated 30.3.94, the claim of the applicant has been denied.

7. Heard the applicant's counsel on law and

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have gone through the CA as the respondents counsel consistently absented from appearance and having gone through the written submissions of the respondents, it is observed that the applicant Shir O.P. Sahu had submitted a petition agitating similar cause of action in OA 1381 of 1992 which was disposed of alongwith other similar petitions on 30.03.94. The applicants contended that their juniors posted in different division were given the benefits of next scale Rs. 1400 - 2300 as envisged in Railway Board's letter no. PCIII/06/4PG/22 dated 24.06.87 and to which the applicants being seniors were not given ~~5%~~ <sup>5/3</sup>. Directions were accordingly given to dispose of the pending representation dated 24.10.89 and their claim in the light of date of appointment of the applicants individually.

8. The case stands admitted that pending representation dated 24.10.89 was disposed of by the respondents as per the direction of the CAT dated 30.03.94. Vide order dated 26.07.94 passed in pursuance of the direction dated 30.03.94, the applicants were informed as reproduced below : -

i. it is not correct to say that the percentage strength of ASM grade 1200 - 2040 (RPS) in the cadre is 10% instead it is 13% as per alternative II which is adopted on N. Rly., as per G.M.(P), N.R. New Delhi's letter no. 757E/85/VII/E 1B dated 28.05.88. (However, <sup>another</sup> ~~the~~ date, 22.9.83 has been averred in CA para 9).

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For promotion to ASM Grade Rs. 1400 - 2300 (RPS) passing P-16 course was a prerequisite as per G.M. (P) N. Rly.,/New Delhi's letter no. 757E/92/EIL dated 22.07.88. Therefore, you are sent for completing P-16 course at ZPE Chandose and you were promoted in ASM grade Rs. 1400 - 2300 after P-16 course.

9.

The applicants were also informed that their case was referred to H.Qrs for proforma promotion, which has been rejected by the H. Qrs on 12.8.92. The respondents have clearly ~~stated~~ <sup>stated</sup> averred that no juniors to the applicant were promoted superseding the applicant as alleged.

10.

The allegations that juniors to the applicants were promoted in the next higher grade. ~~The case is, one~~ <sup>is</sup> therefore, not born by facts. In the present application no case has been made out to suggest that any junior to the applicants got the next higher scale. The submissions that similarly situated persons, like Bipin Kumar, Samir Kumar Srivastava, Ram Gopal and Udai Shanker got the benefits of next higher scale is ambiguous as the names of these persons do not figure in the cited orders annexed as annexure 8 to the compilation II.

11.

As regards the prerequisite of P-16 training, even the letter dated 12.09.85 cited by the applicants in support of their case shows " ~~an~~ employee can be promoted under dispensation of (2 yrs minimum) only after he has been tested by a JA Grade officer, "

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It is not the case of the applicants that they underwent any such test also.

12. The applicants have also not made out their case by a list of seniority or even otherwise to show that they are not within the 13% or even 10% of the ASM in the scale of Rs. 1200 - 2040 to be automatically senior and eligible for the next higher scale from the date of their appointment. Their plea that the requirement of minimum period of 2 years service was reduced to one year. does not help them as under the procedure it only makes them eligible. The applicant cannot claim a promotion to the higher scale immediately by virtue of serving for the minimum period. That is one of the eligibility conditions for re-consideration of promotion  
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13. Vide Ministry's letter dated 26.09.91 (annexure 9 to the CA) there was a stipulation of the P.16 training, which others availed for the purpose of promotion. The prerequisite for P-16 training was always there as indicated in 22.7.88<sup>12</sup> Order of the Ministry (annexure 4 to the CA).

14. Finally on 26.9.91(annexure 9 to the CA) the Ministry clarified that either P-16 training or 10Yrs service would be precondition for the promotion of ASM to the scale of Rs. 1400 - 2300. There is no order of withdrawal of 2 years condition as alleged to be there in the order dated 19.11.90. (No such order has been annexed).

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15. In view of the foregoing we find that the respondents have considered the material issue regarding P-16 training pre-requisite and given a reasoned reply to the applicant and nonfresh aground has been made in the second OA.

16. In view of the foregoing, we find no reasons to interfere in the matter. The application fails on merit, and hence dismissed. There is no order as to costs.

S. Bawa  
Member-A

D. K. Vedula  
Member-J

/Anand/