

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 20th day of February, 2004.

Original Application No. 1423 of 2002.

Hon'ble Mrs. Meera Chhibber, Member- J.

Mahesh Prakash S/o Late Ram Lal  
Ex Assistant Gaurd, R/o 334/6, Rail Bazar,  
Distt. Jaunpur.

.....Applicant

Counsel for the applicant :- Sri B.P. Shukla

V E R S U S

1. Union of India through the General Manager, N.Rly.  
Baroda House, New Delhi.

2. Divisional Railway Manager,  
Northern Railway, Allahabad.

.....Respondents

Counsel for the respondents :- Sri A.K. Pandey

O R D E R

This case was shown in the warning list for being taken up for hearing but even today none is present for the applicant, therefore, I am deciding this case on merits by attracting rule 15(1) of C.A.T (Procedure) Rules, 1987 after hearing counsel for the respondents and perusing available records on the file.

2. By this O.A applicant has sought the following reliefs :-

(1) That this Tribunal be pleased to quash the order dated 31.12.2001 passed by the respondent No. 2 and further be pleased to issue order to respondent No. 2 to restore the failing of 1st Class complementary passes which have been withdrawn.

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He has further contended that the applicant's case is covered under Clause 'C' of the Railway Board's letter dated 29.07.1987 (Pg. 15 of the O.A). He has also contended that other employees who are working as Assistant Gaurd under other zones of Indian Railway are availing the First Class pass facility, therefore, the applicant cannot be discriminated against. ~~them~~.

5. Respondents have opposed this O.A and have submitted that the applicant is not entitled to First Class Railway Pass because the last pay drawn by the applicant on the date of his retirement was only Rs. 1800/- even after adding 30% of basic salary, whereas for entitlement of First Class pass, <sup>higher & de q</sup> the persons had to be in the scale of Rs. 2040/-. Therefore, his representation has rightly been rejected by the respondents. They have further submitted that <sup>if</sup> the applicant was allowed to <sup>earlier,</sup> use First Class pass due to clerical error, it does not give him right to claim the same even after the error is detected ~~and~~ <sup>as</sup> ~~can always be P~~ the mistake is ~~also~~ corrected by the respondents.

6. I have heard the learned counsel for the respondents and perused the pleadings. In the speaking order dated 31.12.2001 the respondents have clarified that during 01.01.86 to 31.07.1990 the applicant had drawn maximum of basic pay Rs. 1400/- in the grade of Rs. 950-1400/- and even after adding 30% of running allowances his pay reached to Rs. 1820/- which comes in the scale of Rs. 1235-1820/- whereas as per the instructions First Class Pass could be issued only to those employees who had reached at Rs. 1530/- or above provided the employees are in the scale of pay where the maximum of the scale is Rs. 2040/- or above according to PS.9225. Since the applicant had only reached in this pay scale whereas the higher <sup>unjustified</sup> scale was Rs. 2040, therefore, he has no right to claim the First Class Complementary passes. The applicant has not been able to show me from his averments that he has ~~ever~~ reached in

(II) This Tribunal may be pleased to order the respondent to compensate the loss which the applicant has suffered due to not availing of his right of two facts of complementary 1st Class passes in a year.

3. It is submitted by the applicant that he retired on 31.07.1990 from the post of Assistant Gaurd Scale of Rs. 920-1400/-. He was allowed the privilege of 1st Class pass facility during his service time when his pay was reached to Rs. 1720/- after adding 30% running allowances in the new scale Rs. 950-1400/-. Even after his retirement he was allowed the privilege of First Class Pass as complementary pass facility for First Class. But this facility was disallowed by order dated 24.04.1992. He filed his representation but since no positive reply given to him, OA No. 1908/1993 was filed which was disposed of by giving direction to the respondents to decide the representation of the applicant dated 20.09.1992. The order of the Tribunal dated 27.05.1994 is annexed as Annexure- 5. He thereafter filed another representation dated 02.06.1994 but since no satisfactory reply was given he, therefore, filed another O.A 964/2001 which was decided on 30.08.2001 by giving direction to the respondents to dispose of his fresh representation by passing speaking order within 8 weeks (Annexure- 9). However, his representation was rejected by order dated 31.12.2001, therefore, applicant had no other option but to file the present O.A.

4. It is contended by the applicant that withholding of pass facilities amounts the punishment under Railway Service (Discipline and Appeal) Rules, therefore, the same could not have been passed without holding the procedure laid down under the said Rules. He has further contended that since he was given this facility already, the same could not have been taken away without giving him an opportunity of hearing.

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the pay scale where the upper amount is Rs. 2040/- . Moreover, the applicant has not rebutted the averments made by the respondents as no RA has been filed by him even though the CA was filed as back as on 21.08.2003. The applicant has merely stated in para 4.16 that he was getting the basic pay Rs. 1820/- as Assistant Gaurd but this position has been clarified by the respondents in the speaking order when they have stated that even though he had reached Rs. 1820/- but that would be covered in the pay scale of Rs. 1235-1820/- . As such it is clear that he had not reached in the pay scale where the higher amount was Rs. 2040/- . As far as the PS.9225 is concerned even there it is clarified that when the Goods Gaurd reaches in the pay scale of Rs. 1720/- in the scale of Rs. 1200-2040, he will become eligible for First Class Passes but since the applicant had never come in this scale, therefore, I am satisfied that no case has been made out by the applicant for interference. The same is accordingly dismissed with no order as to costs.

  
Member- J.

/Anand/