

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 972 of 2003

Allahabad this the 7th day of October, 2005

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Charan Das son of Shri Brij Lal, R/o 25 Akhara Man Khan, P.S. Attarsuiya, Allahabad.

Applicant

By Advocate Shri Shamim Ahmad

Versus

1. Union of India through Chairman Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, North Central Railway, Allahabad.
3. The Divisional Railway Manager, Allahabad Division, North Central Railway, Allahabad.

Respondents

By Advocate Shri Prashant Mathur

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

By this O.A., applicant has prayed for direction to respondents to grant him privilege of 1st class passes w.e.f. April, 2003, when the applicant reached the basic pay of Rs.5375/- per month.

2. The brief facts of the case, as per the applicant are that he was initially selected for a Group 'C' post after passing the written examination held on 22.02.1981 and the interview held on 21.07.1982. He was posted as Train Clerk. The name of the applicant

[Signature]

found place at serial no.25 in the panel dated 28.06.1984 of Train Clerks. It is submitted by the applicant that appointment letter was given to him only on 22.09.1986. The applicant thereafter appeared in the medical examination, in which he was declared unsuccessful. Thereafter, applicant gave so many representations to absorb him in an alternative category. On 05.02.1988, he was offered the alternative appointment on the post of Office Clerk and since then he has been regularly working on the post. It is further submitted by the applicant that on reaching the basic pay of Rs.5375/-, he requested the Railway department to issue him 1st Class passes as per the latest Pass Rules 1986. However, the respondents have refused him to issue the 1st Class passes on the analogy that persons appointed prior to 10.11.1987 are entitled for 1st Class pass. Learned counsel further submitted that in respect of employees of Western and Central Railway, who were appointed by the subsequent employment notice, the Railway Board has considered their matters for privilege of 1st Class Passes. The applicant has also claimed that several junior persons to him were given the 1st Class passes. The applicant has moved a representation on 07.05.2003 but, no heed was paid by the respondents on his request. Therefore, he has approached this Tribunal with the abovementioned prayer.

3. Learned counsel for the applicant has pressed the O.A. on the grounds that persons junior to the applicant are getting the privilege of 1st Class pass and the action of the respondents is violative of Article 14 and 16 of the Constitution of India. Learned counsel further submitted that the applicant was selected vide panel dated 04.12.1983 and placed at serial no.25 in the panel dated 28.06.1984 but as he was not successful in the medical examination, he was given the appointment letter on 05.02.1988.

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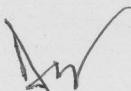
4. Resisting the claim of the applicant, the respondents have filed their counter reply, in which it is submitted that the applicant was appointed as Temporary Office Clerk in the grade of Rs.950-1500 (RPS) on 16.05.1988 and he resumed his duties with effect from 17.05.1988, as such, he is not entitled to avail 1st class passes and privilege tickets even after reaching the basis pay of Rs.5375/- per month. It is submitted by the respondents that vide Railway Board's letter dated 10.11.1987, it has been specified that the employees appointed in the Railway service up to 31.03.1987 shall be entitled for 1st Class pass on reaching the basis pay of Rs.5,375/-.

5. Heard, learned counsel for the parties and perused the record.

6. The main contention of applicant's counsel, which falls for consideration, is that although the applicant was placed in the panel dated 04.12.1983 but due to lack on the part of Railway administration he was able to join on the post of Office Clerk on 05.02.1988, therefore, there was absolutely no fault on his part in causing the delay on joining in the Railway department. Learned counsel further submitted that the alleged cut off date i.e. 10.11.1987 is not applicable in the case of the applicant as his entire panel was liable for the benefit of 1st class pass on attaining and reaching the basic pay of Rs.5375/- irrespective of the date of joining. Learned counsel further submitted that the Railway administration has issued a letter on 18.12.2003 giving the benefit of 1st class pass to some other similarly situated persons of the panel, who had joined after the cut off date and, as such, applicant is also entitled for the benefit of privilege of 1st class pass on parity. The letter dated 18.12.2003 has been filed as annexure No.1 to the rejoinder affidavit. Learned counsel finally submitted that applicant has represented to the respondents for his grievance by filing a representation on 07.05.2003, which is still

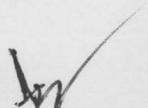
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pending decision. However, in the counter affidavit, in paragraph no.18, it is submitted that no representation dated 07.05.2003 is available in the records of the applicant and, as such, applicant is required to put strict proof thereof. It is further submitted in the counter affidavit that the present O.A. was filed in August 2003 without waiting for the statutory period ~~as required~~ ^{termed} under the rules. The respondents have ~~rendered~~ the claim of the applicant as premature and prayed for dismissal of the O.A. on this ground. Counsel for the applicant has categorically stated in paragraph no.18 of the rejoinder that the representation dated 07.05.2003 had been delivered by hand under endorsement of receipt, which was entered in the register of receipt and dispatch in the Office of Divisional Railway Manager, North Central Railway at serial no.150 dated 07.05.2003. This fact, however, has not been controverted by the respondents by filing any supplementary counter affidavit. Learned counsel for the applicant has also filed a supplementary rejoinder affidavit alongwith a letter dated 07.06.2005 (annexure RA-1), in which it is clearly stated in paragraph 2 that the Railway administration vide his letter dated 07.06.2005 has given the benefit of 1st Class Privilege pass to 17 other similarly situated person of the panel who joined after the cut off dates and irrespective of their date of joining in the Railways, and they are also junior to the applicant, as such, applicant is entitled for the benefit claiming herein. I have gone through annexure RA-1, which supports the version of counsel for the applicant. Learned counsel has also submitted that the representation dated 07.05.2003 has not been decided till date. Normally, the reply is expected from the department on any representation made by the aggrieved person. Therefore, under the facts and circumstances discussed above, I deem it appropriate that interest of justice shall better be served if the representation so filed by the applicant on 07.05.2003 (annexure-5 of the O.A.) is decided by the competent authority i.e.



Divisional Railway Manager, North Central Railway, Allahabad by a reasoned and speaking order within the specified period taking into consideration the fact under which letter dated 18.12.2003 (Annexure-1 to the R.A.) and letter dated 07.06.2005 (Annexure RA-1 to supplementary R.A.) have been issued.

7. Accordingly, the O.A. is disposed of with a direction to the competent authority i.e. Divisional Railway Manager, North Central Railway, Allahabad to decide the representation of the applicant in the light of above observation within a period of 3 months from the date of communication of this order. No order as to cost.


Member (J)

/M.M./