

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.980 of 1996

Present : Hon'ble Mr.D.Purkayastha, Judicial Member.

SMT.PRIOWALA PREM NATH

... Applicant

Vs.

1. Union of India through General Manager,
Eastern Railway, Fairlie Place,
Calcutta.
2. General Manager, Eastern Railway,
Fairlie Place, Calcutta.
3. Chief Medical Director,
Eastern Railway,
14, Strand Road, Calcutta.
4. Divisional Railway Manager,
Eastern Railway, Sealdah.

... Respondents

For the applicant : Mr.B.P.Roy, counsel.
Mr.P.K.Ghosh, counsel.

For the respondents: Mr.P.K.Arora, counsel.

15.1.1997, 27.1.1997 &
Heard on : 13.3.1997

Judgment on : 13.3.1997

J U D G M E N T

Smt.Priowala Prem Nath, Midwife, now retired, has come before this Tribunal being aggrieved by the order of discontinuance of issuance of Ist. Class passes to her from September, 1993, without assigning any reason whatsoever though she was allowed to enjoy the Ist Class Passes by the respondents before September, 1993. According to the applicant, the order of discontinuance of Ist Class passes to her is arbitrary and illegal in view of the fact that the expression of the word 'Nurse' includes Midwife, which would be evident from the letter

dated 16th December, 1988, issued by the Chief Personnel Officer, Eastern Railway, Calcutta, and Railway Board's notification dated 18.6.1987. According to the applicant, the matter has been clarified by the Board in their letter no.E.(P&A)II/87/AL/1 dated 18.6.1987 stating that Matrons including Sisters-in-Charge, nursing sisters and all Nurses, Midwives and Health Visitors have been considered as Nursing Staff in the Railways. According to the applicant, since Midwives were treated to be nursing staff of the Railways, she is entitled to get Ist Class passes, as enjoyed by her till September, 1993.

2. The claim of the applicant is resisted by the Railways by filing a written statement. The respondents deny the claim of the applicant stating inter alia ^{that} ~~under~~ the circular referred to by the applicant, the same was issued for the purpose of granting Laundry Allowance and Uniform Allowance ^{to the Nursing Staff of the Railways only} at the enhanced rate. However, this circular would not confer any admissibility for Ist Class passes to the aforesaid all categories, as claimed by the applicant. This circular was issued exclusively for certain extra financial benefits. It is further stated in the reply that the applicant was erroneously granted Ist Class passes which was subsequently withdrawn on the strength of Secretary of Eastern Railway communication No.G.470/G/1/XI/P dated 14.9.1992 (annexure 'R/1' to the reply). It is also stated that the case of the applicant was also represented to CPD/CCC vide one of the recognised Union Representation dated 21.11.1994 followed by a reminder dated 17.4.1994 which was duly considered and a reply was issued to the General Secretary of the said recognised Union explaining that issue of higher class passes at lower pay limit is not applicable to Midwives as per G.M./Pass letter No.G.470/Q/1/Pt.XI/P dated 14.9.1992, with a copy to the applicant. So the respondents state the application is frivolous, speculative, and liable to be dismissed with costs.

3. Heard ld.counsel for both the parties.

4. Ld.counsel Mr.B.P.Roy appearing on behalf of the applicant, produced the notification dated 27.3.1987 of the Railway Board and notification dated 18.6.1987 and another letter dated 16.12.88

at the time of hearing. All documents are kept on record for the purpose of consideration of this case. Referring to these circulars, ld.counsel Mr.Roy, submits that from the aforesaid documents it is clear that the Matrons including Sister-in-Charge, Nursing Sisters and all Nurses, Midwives and Health Visitors, have been considered as nursing staff of the Railways and they were allowed to enjoy the benefit of Laundry Allowance and Uniform Allowance treating them as nursing staff. Therefore, the expression of nursing staff as clarified in the letter dated 16.12.1988 should be extended for the purpose of interpretation of the word 'Nurses' in Clause 2 of Schedule II of the Railway Servants(Pass) Rules, 1986. Mr.Roy further submits that in view of the circular and clarification made in the letter dated 16.12.1988 by the Chief Personnel Officer, Eastern Railway, the applicant is entitled to enjoy the First Class Pass which was being enjoyed by her before September, 1993, since she was appointed in the Railway Department before 1.8.1969.

5. This argument of the ld.counsel Mr.Roy is controverted by the ld.counsel appearing for the respondents stating inter alia that the Railway Servants (Pass) Rules, 1986, is a statutory rule for the purpose of granting passes to the Railway employees only and clarification as given in the letter dated 16.12.1988 was not for the purpose of issue of passes under the Rules in question but for granting Laundry Allowance and Uniform Allowance etc. to the nursing staff. So this notification cannot be inserted in the Rules framed under Rule 309 of the Constitution by the Railway Board. Mr.Arora further submits that from the notification dated 10.6.1987 it can be seen that the Railway authorities had not included the Midwives for the purpose of granting passes under the Railway Pass Rules. He further draws my attention to the notification dated 10.6.1987 which indicated that the Midwives appointed before 1.8.1969 had not been included for grant of passes having a pay scale of Rs.1400 or above. So Mr.Arora submits that the word 'Midwives' cannot be imported in the Rules by the Tribunal and court has to decide the entitle-

ment of the applicant as per rules which has statutory force in the eyes of law.

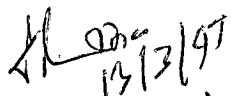
6. In view of the divergent arguments advanced by the ld. counsel for both the parties it is to be considered by this Tribunal whether the applicant is entitled to get benefit of First Class Pass which was being enjoyed by her before September, 1993, and whether ^{this} ~~its~~ discontinuance was legally enforced ~~against~~ her or not. The admitted case of the applicant is that she was appointed prior to 1.8.1969. From the notification dated 10.6.1987, I find that Railway Board had categorically distinguished the class of the employees who are entitled to get Railway pass i.e. staff appointed before 1.8.1969 ^{and after 1.8.69}. From the notification dated 10.6.1987 it further appears that the Female Nurses and Lady Health Visitors appointed after 1.8.1969 would be entitled to First Class pass when their pay reaches Rs.1480/- or above. The same notification further indicates that Female Nurses appointed prior to 1.8.1969 would be entitled to First Class Pass when their pay reaches Rs.1400/- or above and the Lady Health Visitors appointed prior to 1.8.1969 would be entitled to First Class Pass provided their pay reaches Rs.1230/or above. From the notification it is further clear that Midwives appointed prior to 1.8.1969 have not been included in the notification and hence they are not entitled to get First Class Pass even if they carry the pay limit of Rs.1400/- or above. Clause 2 of Schedule II of Railway Servants (Pass) Rules, 1986, runs as follows :-

"Nurses drawing a pay of Rs.1400/- or above and Lady Health Visitors drawing a pay of Rs.1230/- or above are entitled to get First Class Pass."

So from this provision it is clear that the Nurses who are holding the pay of Rs.1400/- or above and the Lady Health Visitors holding a pay of Rs.1230/- or above, are only entitled to get First Class Pass. None ^{of the} others in the said category of Nursing staff, are entitled to get First Class Pass. Since ~~it~~

Railway Servants (Pass) Rules, 1986, is a statutory rule, thereby no duty is cast upon the Tribunal to do anything more than that to give effect to the word or words used in [✓]the said Rule being unambiguous cannot be construed to confer right of Pass - the said Rules. So the applicant cannot claim the benefit of pass under the said Rule on the basis of the interpretations or clarifications made in the notification dated 21.7.1987, which was issued by the Railway authority for the purpose of granting Laundry Allowance and Uniform Allowance to nursing staff in the Railways. It is well settled law as per judgment of the Hon'ble Apex Court in Bhagat Ram Sharma vs. U.O.I. (AIR 1988 SC 740) (equivalent to 1988 SUPP SCC 30) that when language of the statute is free from ambiguity, no duty is cast upon the court to do anything more than to give effect to the word or words used in the statute. So Railway Servants (Pass) Rules, 1986, is a statutory rule and right to enjoy benefit under the service juris prudence would be accrued from the Rule itself. The court cannot confer any right upon the citizen not recognised by the Rules.

7. In view of the aforesaid circumstances, I am constrained to hold that the application is devoid of merit and hence it is liable to be dismissed. Accordingly, application is dismissed, without any order as to costs.


(D. Purkayastha)
Judicial Member