

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, Jodhpur**

**Original Application Nos.210/2006**

**Date of decision: 28<sup>th</sup> August, 2008**

**Hon'ble Mr. Justice M. Ramachandran, Vice Chairman.**

**Hon'ble Mr. Tarsem Lal, Administrative Member.**

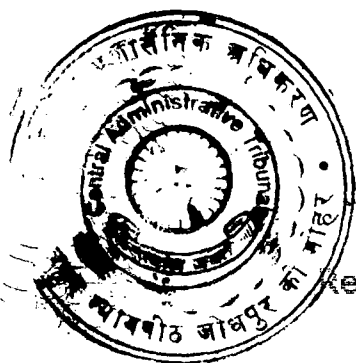
1. Mahaveer Singh, s/o Shri Sambhu Singh, aged about 27 years, resident of 3120, Railway Workshop Colony, Rotary Choraha, Jodhpur (Rajasthan). At present working as Junior Engineer II(Diesel)/Mechanical) at Office of Senior Divisional Mechanical Engineer Diesel Shed Bhagat Ki Koti, Jodhpur.
2. Pramesh Khulbi, s/o Shri Bachi Ram Sharma, aged about 31 years, resident of 3116, Railway Workshop Colony, Rotary Choraha, Jodhpur (Rajasthan). At present working as Junior Engineer II(Diesel)/Mechanical) at Office of Senior Divisional Mechanical Engineer Diesel Shed Bhagat Ki Koti, Jodhpur.
3. Rajkumar Sharma, s/o Shri Jai Narayan Sharma, aged about 30 years, resident of 3118, Railway Workshop Colony, Rotary Choraha, Jodhpur (Rajasthan). At present working as Junior Engineer II(Diesel)/Mechanical) at Office of Senior Divisional Mechanical Engineer Diesel Shed Bhagat Ki Koti, Jodhpur.
4. Ajay Kumar Parashar, s/o Shri Brijesh Kumar Sharma, aged about 29 years, resident of 3119, Railway Workshop Colony, Rotary Choraha, Jodhpur (Rajasthan). At present working as Junior Engineer II(Diesel)/Mechanical) at Office of Senior Divisional Mechanical Engineer Diesel Shed Bhagat Ki Koti, Jodhpur.
5. Sumit Purihit, s/o Shri Hemraj Purohit, aged about 27 years, resident of House No. 33, Deepo Ka Chowk, Veer Mohala, Jodhpur. At present working at Railway Workshop, Office of Chief Works Manager, Jodhpur as a Junior Engineer (Drawing).

: applicants.

Rep. By Mr. Kuldeep Mathur, : Counsel for the applicants.

**Versus**

1. The Union of India, through the General Manager, North West Railway Jaipur ( Rajasthan )



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2. The Divisional Personnel Officer, North West Railway Jodhpur (Rajasthan)
3. The Assistant Divisional Officer, North West Railway, Jodhpur (Rajasthan).
4. The Director Finance/CCA, Railway Board, Govt. of India, Ministry of Railways, New Delhi.

: Respondents.

Rep. By Mr. Salil Trivedi : Counsel for the respondents.

**ORDER****Per Mr. Justice M.Ramachandran, Vice Chairman.**

Five applicants have joined together to prefer this application in view of the circumstance that their grievances are identical in all respects.

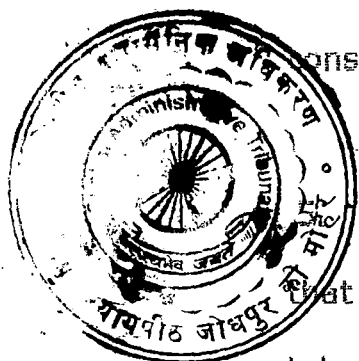
2. Consequent to notification dated 22.11.2001 issued by the Railway Recruitment Board, (RRB for short) Ajmer and Ahmedabad, inviting applications for the post of Junior Engineer, applicants responded and in due course had been selected in September 2002. It was a condition that those who got selected were to undergo training for a period of 18 months. It is not in dispute that after successful completion of training, they had been offered job and all of them had joined as Junior Engineer on 04.2004 or near about dates.

In the meanwhile, the Government of India introduced a contributory pension system for the new recruits to Central Government services and the said scheme came into operation w.e.f. 01.01.2004. Following the above, the Railway Board issued



a circular on 19.02.2004 introducing the new pension scheme for Railway employees who joined railway service after 01.01.2004.

4. After regular appointment for some months the respondents did not deduct any contribution towards pension account and therefore the applicants were under the impression that they were governed by the Railway Services (Pension) Rules 1993. But the respondents without any information started making deduction from their salary towards pension account later on. On coming to know about the deduction, the applicants met the respondents and represented that perhaps the new pension scheme introduced by the Ministry of Railway is not applicable to them since they have joined service much earlier to 01.01.2004. The applicants also submitted various representations stating that they cannot be denied the applicability of Railway Services (Pension) Rules, 1993 on the ground that they joined railway services only after 01.01.2004. The representations were negatived by the respondents as it could be seen from Annex. A/2. dated 27.07.2004 and later advice dated 26.07.2006 ( Annex. A/1). These orders were impugned in the present O.A, and the consequential reliefs have been prayed for.



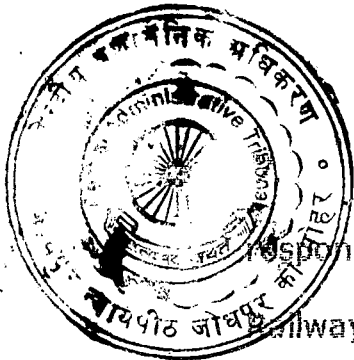
The applicants had brought to the attention of the Tribunal that in some Divisions date joining in the induction training were taken as the date of entry into service and they have been treated as eligible for liberalized pension scheme whereas the applicants have been discriminated. They had pointed out that the

Government of India, M/o Personnel, P.G and Pensions issued OM dated 11.10.2006, (Annex. A/14 filed with the rejoinder), clarified that employees who were appointed prior to 01.01.2004, and put on induction training are to be treated as covered under the CCS (Pension) Rules, 1972.

6. Although, by way reply statement, a distinction had been drawn between the employees appointed prior to 01.01.2004 and persons who were undergoing training before regular appointment, when the matter came up for hearing today, the learned counsel for the Railways invited our attention to a letter dated 16.06.2008, issued by the Senior Division Personnel Officer, North Western Railway, Jodhpur, and also to OM dated 05.03.2008, issued by the Ministry of Personnel, P.G. and Pensions, New Delhi, which have been taken on record. It has been clarified as follows.

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3. The matter has been further examined and it is now clarified that the employees who were required to undergo departmental training relating to jobs prior 01.01.2004 before they were put on regular employment and were in receipt of stipend during such training would also be covered under the CCS (Pension) Rules, 1972 provided the period spent on such training was eligible for being counted as qualifying service under the CCS(Pension) Rules, 1972."



It is, therefore, submitted by the learned counsel for the respondents that the applicants will be treated as appointed to Railway Service before 01.01.2004. Therefore, there cannot be any further controversy on the issue and it has to be presumed that the applicants would be entitled to benefits under Railway Services (Pension) Rules, 1993. Since there is no dispute that the training period would also be covered under the CCS (Pension)

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Rules, 1972, the applicants are to be considered having been appointed to Railway Service before 01.01.2004, we do not think any further orders are required excepting a declaration as above made.

8. The learned counsel for the applicants refers to one other aspect, concerning the amounts deducted from their salary towards new pension scheme and credited in their respective pension account demanding that the same, be returned to them. On this issue, the learned counsel for the respondents pointed out that since the applicants are declared as entitled to pension under the Railway Services (Pension) Rules, 1993, it is obligatory to deduct contributions towards provident fund from their respective salary.

The amount already deducted from the applicants, would be adjusted and credited to the individual provident fund account in course of time.

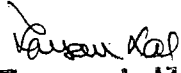


9. We are of the view that these are only consequential arrangement to be made by the administration and we need not issue any further direction in this regard. It is not in dispute that the recoveries already made from the salary of the applicants towards although New Pension Scheme would go to their respective provident fund account, as the administration has no right over such funds.

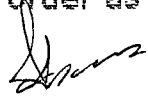
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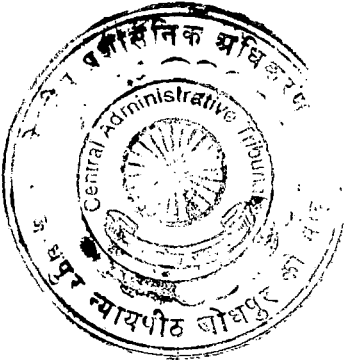
10. Appropriate follow up action and due adjustment of the amount deducted from the salary of the applicants are to be carried out with the expedition it requires

11. The O.A is disposed of without making any order as to costs.

  
[Tarsem Lal]  
Administrative Member

jsv

  
[Justice M. Ramachandran]  
Vice Chairman.



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