

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Reserved on 27.03.2014.

Pronounced on 15th April 2014.

Original Application No.281/2008

**Hon'ble Mr. Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)**

1. Anil Kumar Upadhyaya, aged about 48 years, Son of Shri Ram Garib Upadhyaya, presently working as Power Khalasi in General Power Supply Department, Pratapgarh (Power) under Senior Divisional Electrical Engineer, Northern Railway, Lucknow Division, Lucknow.
2. Ram Chandra Sharma, aged about 48 years, Son of Shri Shyam Lal, presently working as Power Khalasi in General Power Supply Department, Pratapgarh (Power) under Senior Divisional Electrical Engineer, Northern Railway, Lucknow Division, Lucknow.

-Applicant.

By Advocate: Sri Raj Singh.

Versus.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow Division, Hazratganj, Lucknow.
3. Senior Divisional Electrical Engineer, Northern Railway, Lucknow Division, Hazratganj, Lucknow.

-Respondents

By Advocate: Sri S. Verma.

O R D E R

By Ms. Jayati Chandra, Member (A)

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, seeking the following relief(s):-

J. Chandra

- (i) *This Hon'ble Tribunal may kindly be pleased to set aside the impugned order dated 07.06.2007 (Annexure No.1 to the O.A.).*
- (ii). *This Hon'ble Tribunal may also be pleased to direct the respondents to grant the pay scale of Rs.3050-4590 to the applicants w.e.f. 12.11.98 as recommended by Vth Central Pay Commission.*
- (iii). *To pass such other orders which are found just fit and proper under the circumstances of the case.*
- (iv). *To allow the original application with costs."*

2. The facts of the case which as averred by the applicants are that applicant no.1 was appointed on the post of Substitute Khalasi (I.T.I.) in the pay scale of Rs.750-940 w.e.f. 22.02.1987 in the office of Divisional Railway Manager, Northern Railway, Allahabad vide letter dated 03.02.1987. While posted as Helper Khalasi in the pay scale of Rs.800-1150 under Loco Electric Shed (Out Pit), Allahabad, he applied for inter divisional transfer from Northern Railway, Allahabad Division to Northern Railway, Lucknow Division, Lucknow through an application dated 06.10.1993. The application was duly considered by the office of D.R.M., Northern Railway, Allahabad Division, Allahabad and thereafter send a by D.R.M. (P), Northern Railway, Lucknow Division, Lucknow. The request of the applicant was accepted by the competent authority. Thereafter, the applicant was transferred vide order dated 23.02.1996 Annexure-2) from Allahabad Division to Lucknow Division on request accepting bottom seniority and revocation from Helper Khalasi Grade Rs.800-1150 to Khalasi Grade-750-940. The applicant No.2 was appointed on the post of Substitute Khalasi (I.T.I.) in the pay scale of Rs.750-940 w.e.f. 2.03.1987 in the office of Divisional Railway Manager, Northern Railway, Allahabad vide letter dated

J. Chaudhary

17.02.1987. While posted as Helper Khalasi in the pay scale of Rs.800-1150 under Senior Divisional Electrical Engineer, T.M.S., Kanpur, he applied for inter divisional transfer from Northern Railway, Allahabad Division to Northern Railway, Lucknow Division, Lucknow through an application dated 06.10.1993. The application was duly considered by the office of D.R.M., Northern Railway, Allahabad Division, Allahabad and thereafter by D.R.M. (P), Northern Railway, Lucknow Division, Lucknow and after its consideration the request of the applicant was accepted by the competent authority. The applicant was transferred vide order dated 01.11.1994 (Annexure-3) from Allahabad Division to Lucknow Division on request accepting bottom seniority and revocation from Helper Khalasi Grade Rs.800-1150 to Khalasi Grade-750-940.

3. The respondents have issued a Notification Printed Serial No.11466/97-PC-V-1997, dated 12.11.1998 to all concern for implementation of Vth Central Pay Commission Recommendations regarding pay scale for Khalais in Diesel, Electric, Loco and EMU Sheds. By the said Notification, it was stated that Electric Khalasi who ITI passed and are working as semi-skilled Khalasi should be made Technical Grade-III in the pay scale of Rs.3050-4590 (Annexure-4). The applicants have preferred a representations dated 22.6.2006 before the Respondent No.3 but, as nothing was crystallized the applicants have preferred an Original Application No.19/2007 before this Tribunal, which was disposed of by this Tribunal by its order dated 08.01.2007 directing the respondent no.3 to dispose of the representations of

J. Chaudhary

the applicants. Thereafter, by the impugned order dated 7.6.2007, the applicants had refused to extend the benefit of Notification dated 12.11.,1998 although they are ITI qualified Khalasis, which is the essential qualification for grant of pay scale in accordance with the recommendations of Vth Central Pay Commission.

4. The respondents have contested the claim of the applicants through their Counter Reply denying the averments of the applicants. They have not disputed the facts such as posts held by the applicants and the other details of the applicants. Further, they have stated that Applicant No.1 Anil Kumar Upadhayaya, was appointed on the basis of A.P.O., Northern Railway, Allahabad letter dated 03.02.1987 on the post of Substitute Khalasi on 24.02.1987 in the pay scale of Rs.750-940 and he was posted under Electrical Foreman, Northern Railway, Lucknow Division at Pratapgarh. By letter dated 01.10.1999 issued in accordance with the General Manager, Northern Railway letter no.11466/97/P.C.V.)/107 he was given the benefits of ACAP Scheme after putting in 12 years of service and was given the higher scale from Rs.800-1150 to Rs.2650-4000 by letter No.756E/27 dated 18.05.2006 and at present he is working in the same pay scale. Similarly, Applicant No.2, R.C. Sharma after his inter divisional transfer joined on the post of Khalasi on 06.12.1996 and working under the Electrical Foreman of Pratapgarh. In compliance with the Railway Board letter dated 01.10.1999, he was given the benefit of the ACAP Scheme and he was given the pay scale of Rs.2650-4000 w.e.f. 01.10.1999. The case of the applicants for grant of pay up-gradation as per the

J. Chandra

recommendation of Vth Central Pay Commission was examined. It was found that they are not entitled for the same.

5. The applicants have filed their Rejoinder Affidavit stating more or less same things as earlier stated by them in the OA. They have further stated that the benefit of Vth Central Pay Commission has been given to the similarly situated junior employees namely Shri Ram Lalit and Shri Rajendra Singh. These two persons were regularized alongwith the applicants on 01.01.1992. Further, they have stated that Vth Central Pay Commission Recommendations provides for grant of Rs.3050-4590 to the Khalasis working in Diesel, Electric, Loco/EMU Sheds and the applicants are working in the Electrical Department under the Senior Divisional Electrical Engineer, Northern Railway, Lucknow Division, Lucknow and as such the applicants are entitled to get the pay scale of Rs.3550-4590. Moreover, they have also I.T.I. qualification.

6. We have heard the learned counsel for both the parties and perused the entire material available on record.

7. The claim of the applicant arises from the implementation of the recommendations of Vth Central Pay Commission as envisaged in Railway Board letter No.PC-V/97/1/11/1 dated 28.09.1998 as communicated to the respondents through the letter dated 12.11.1998. The recommendation of Vth Central Pay Commission dated 29.09.1998 shows that as a result of certain

J.Chandna

different pay scales restructuring of posts with revised pay scales will be available to Khalasis in Diesel/Electric, Loco/EMU Sheds applicable on % basis are as followed w.e.f. 01.09.1998:-

Sl.No.	Scale	Existing Percentage	Revised percentage
1.	Rs.950-1500/Rs.3050-4590	Nil	50
2.	Rs.800-1150/Rs.2650-4000	80	30
3.	Rs.750-940/Rs.2550-3200	20	10
4.	To be surrendered		10

In para-5 of the same letter it has been mentioned that the revised methodology for filling of the posts of skilled artisans in grade Rs.3050-4590 in Diesel, Electric/EMU maintenance trade will be as under:-

(i). 60% by direct recruitment from successful course completed act apprentices, ITI pass candidates and Matriculates from the open market.

(ii). 20% from serving semi-skilled and unskilled staff with three years of regular service with educational qualification as laid down in the apprentice act as outlined in Railway Board's letter No.E(NG)1/96/PM7/56 dated 2.2.1998 and

(iii). 20% by promotion of staff in the lower grades as per prescribed procedure.

8. The para-6 further states that the benefit of the grade Rs.3050-4590 to the existing staff with the prescribed qualification stated in Para-5 (I) above and who are on roll as on 01.09.1998 on passing the prescribed trade test. In para-8 number of post to be operated in the scales of pay indicated in para-2 above will be with reference to the sanctioned cadre strength as on 1st Sept. 1998. It is also seen that the subject matter is written as "Implementation of Vth CPC recommendations regarding pay scale so Khalasis in

T. Chandra

Diesel/Electric/Loco/EMU Sheds". As both the applicants are working under EFO/PBH (Power) as Power Khalasi, which is different from the nomenclature as apparent in the notification under reference. The applicants have not provided any Notification/orders etc. to controvert the statement made in the impugned order that post occupied by them are out side the purview of the post as notified in the Notification dated 28.09.1998. Therefore, the applicants have failed to prove their case.

9. In view of what has been stated above, we do not find any merit in the O.A. and the OA is deserve to be dismissed and is accordingly dismissed. No order as to costs.

J. Chandra
(Ms. Jayati Chandra)

Member (A)

VR. Agarwal
(Navneet Kumar)

Member (J)

Amit/-