

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**LUCKNOW BENCH, LUCKNOW**

Original Application No. 167/2010

This, the 30th day of November, 2011

**Hon'ble Mr. Justice Alok Kumar Singh, Member (J)**

**Hon'ble Sri S.P.Singh, Member (A)**

Brajesh Prasad Saxena aged about 70 years son of late B.R.Saxena, R/O. D-248, Rajajipuram, Lucknow-226017.

Applicant.

By Advocate: Mr. Mohd.Anis

Versus

1. Union of India through the Director General, Research Design and Standards Organizations, Manak Nagar, Ministry of Railways, Lucknow-226011.
2. Chief Personnel Officer./Public Information Officer, Research Design and Standards Organizations, Manak Nagar, Ministry of Railways, Lucknow-226011.

Respondents.

By Advocate: Sri B.B.Tripathi

**ORDER (Dictated in Open Court)**

**By Hon'ble Mr. Justice Alok Kumar Singh , Member (J)**

This O.A. has been filed for the following reliefs:-

- i) This Hon'ble Tribunal may kindly be pleased to quash the respondent No.2's order No.E-II/RTI/Soochna dated 9/12.2.2010 (Annexure No.1 of the Original Application).
- ii) This Hon'ble Tribunal may very graciously be pleased to direct the respondents to grant four advance increments to the applicant in terms of Railway Board's letters dated 21.2.2008,4.5.1990 and 12.10.1990 (Annexure 2,4 and 5 respectively to this O.A.).
- iii) This Hon'ble Tribunal may further be pleased to direct the respondents to pay consequential benefits, fixation of salary and arrears constituting the balance of what was paid and what would be payable including all consequential benefits and revision of

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pension along with interest @ 18% from the date it became due within a specified time limit.

iv) This Hon'ble Tribunal may also be pleased to pass such other orders which are found just, fit and proper under the circumstances of the case.

v) To allow the original application with cost.

2. The applicant's case is that initially he entered into the service of the respondents in Group 'C' and in the month of April, 2000, he was promoted to Group 'B'. Ultimately, he retired on 31.7.2000. During the course of his employment, he acquired higher scientific/ technical qualification of AIME in the year 1975/1985 part A and B respectively. It is said that vide O.M. dated 4.5.90 of the Railway Board (Anexure 4), it was provided that Group B officers of the Technical Departments should be granted six advance increments on passing part B of the AMIE examination in case they acquire the qualification after joining service.

3. The C.A. and R.A. were exchanged. Thereafter, a Supple. C.A. dated 24.2.2011 was filed saying/reiterating that the claim is barred by time. At the same time, a new development was also intimated that now through letter dated 2.12.2010, the Railway Board has considered the matter and has decided to grant incentive to Group B staff who acquired qualification prior to 4.5.1990 and retired subsequently without availing the additional benefits. They have annexed this letter as SCR-3. It has been further said that accordingly, advance increments have been granted to the applicant and his pay fixation has been revised as per SCR-4. The details of the salary are also contained in the Annexure therein.

4. Yet another affidavit dated 6.9.2011 sworn by Sri Sanjeev Jaiswal, Joint Director (Estt.) R.D.S.O., Ministry of Railways,

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Manak Nagar, Lucknow was filed saying that the applicant was entitled for payment of 4 advance increments on acquiring higher qualification only after Railway Board's policy decision received by the aforesaid letter dated 2.12.2010. Accordingly, order for revising pay fixation was issued on 5.9.2011 (Annexure ASCR- 3) It has also been pointed out that due to inadvertence, the date has been mentioned as 5.1.2004 whereas it ought to have been 5.1.2011. In para 9, the details of payment as per revised fixation Pension Payment Order have also been given. It has also been said that all payments of pay and allowances with the approval of Railway Board and pensionary benefits have been admittedly made to the applicant.

5. As against this affidavit, no Supplementary R.A. or any other affidavit has been filed from the side of the applicant.

6. We have heard the arguments from both the sides and perused the material on record.

7. At the outset, it may be mentioned that the learned counsel for the applicant now fairly concedes that the four additional increments have been granted to him and payment has also been made accordingly. Now he only insists that the applicant should also be awarded interest on the ground that he retired in July, 2000 and since then he was entitled to get this amount but it has been given after a lapse of about 11 years .

8. From the other side, it is submitted that it was only after the clarificatory letter issued by the Railway Board on 2.12.2010 (SCR- 3) that the position was clarified in this regard and within a reasonable time, i.e. in September, 2011, the orders were passed in favour of the applicant to give four advance increments with retrospective effect i.e. w.e.f. 4.5.1990, the date from which he was entitled to get it on the basis of his acquiring higher qualification of being passing AIME Examination during service.

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9. At this stage, we carefully perused the aforesaid letter dated 2.12.2010 issued by the Railway Board. It is as under:-

"Sub: Incentive for acquiring higher scientific/accounts/technical qualification of Group B employees.

Reference Board's letter No.E(Trg.) 89(28)/29 dated 25.8.1994 regarding incentive to Group B officers, for acquiring higher qualifications, clarification had been sought by some Railways/Pus from Board regarding applicability of Board's orders to Group B employees who had acquired the requisite qualification before the cut off dates, but retired subsequently without availing the additional benefits.

The matter has been considered in the Ministry of Railways and it has been granted incentive to Group B staff who acquired qualification prior to 4.5.1990 and retired subsequently without availing the additional benefits.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways (Railway Board).

Sd/-  
(Padma Sharma)  
Depury Director (Trg.)  
Railway Board

No.E (TRg.)2009(28)/2 New Delhi dated 2.12.2010"

10. From the perusal of the aforesaid letter, it appears that certain clarification were sought by some Zonal Railways/ PUCs from Railway Board regarding applicability of Board's order to Group 'B' employees who had acquired the requisite qualification before the cut off dates but retired subsequently without availing the additional benefits. This matter was considered as a policy matter in the Ministry of Railways and thereafter, it was agreed to grant incentive to Group B staff who acquired qualification prior to cut off date i.e. 4.5.1990 and retired subsequently without availing the

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additional benefit. According to the respondents, after this clarification, the respondents could give this benefit to the applicant. The record of this case reveals that prior to it, some litigation took place before the Tribunal and the relevant orders passed by the Tribunal were acted upon in a bonafide manner and good faith. Since it was a policy decision the entire matter was thoroughly considered and it was decided to give benefit to the officers belonging to the aforesaid cadre, who retired without availing the additional benefits.

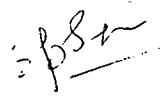
11. From the side of the applicant no previous clear order could be shown entitling this benefit in favour of the applicant. In other words, it could not be shown that there was any prior circular/OM or any other order on the basis of which this benefit could have been given to the applicant earlier from any relevant cut off date. Moreover, this clarification dated 2.12.2010 has not been impugned in this O.A. Similarly, the relief No.1 which has been sought in this O.A. appears to be misconceived by means of which the information furnished under RTI Act on 9/12.2.2010 has been impugned. As far as relief No.2 is concerned, it pertains to grant of four advance increments in terms of Railway Board's letters dated 21.2. 2008, 4.5.1990 and 12.10.1990 (Annexure No. 2,4 and 5 ). We have carefully gone through these letters. In neither of these letters, it was anywhere clearly laid down that his benefit would be given to Group 'B' officers from a particular cut off date who had already retired. It was only after issuance of the aforesaid clarificatory letter dated 2.12.2010 of the Railway Board that was clarified that such Group B officers who had acquired qualification prior to 4.5.1990 and retired subsequently without availing the additional benefit should be given this incentive. Therefore, relief No.2 cannot be granted in the manner it has been sought.

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12. We also do not find any justification to grant interest in view of the aforesaid facts and circumstances.. Moreover, it is also not provided in the scheme laid down in the aforesaid letters/ circulars/OMs.

13. Relief No. 3 is for payment of consequential benefits , fixation of salary etc. which has already been done now as mentioned hereinabove. Even payments have already been made.

14. Having regard to the above, OA. deserves to be dismissed and accordingly it is so ordered. No order as to costs.

  
(S.P.Singh)  
Member (A)

  
(Justice Alok Kumar Singh)  
Member (J)

HLS/-