

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:630.95

DATE OF DECISION: 22<sup>nd</sup> June 2000

Shri Bilonia and Others Applicant.

Shri K.B.Talreja Advocate for  
Applicant.

Versus

Union of India and others Respondents.

Shri V.S.Masurkar. Advocate for  
Respondents

**CORAM**

Hon'ble Shri L.Hmingliana, Member(A)

Hon'ble Shri Rafiquddin, Member(J)

(1) To be referred to the Reporter or not? Yes

(2) Whether it needs to be circulated to other Benches of the Tribunal? No

(3) Library. Yes

Rafiquddin  
(Rafiquddin)  
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:630/95

the 22 day of JUNE 2000.

CORAM: Hon'ble Shri L.Hmingliana, Member(A)

Hon'ble Shri Rafiquddin, Member(J)

M.L. Bilonia & Ors.  
Vice President,  
Enquiry-cum-Reservation  
Staff Association,  
Room No.3, Sai Vihar  
Panchmukhi Colony,  
Beturkar Pada,  
Lalyan.

A.R. Subramaniam,  
E.C.R.C.  
Central Railway,  
Bombay VT.  
8 Raja Govind Bldg.,  
Valliper Naka, Main Bazar,  
Kalyan.

...Applicants.

By Advocate Shri K.B. Talreja.

V/s

1. The Union of India through  
The General Manager,  
Central Railway,  
Bombay VT.
2. The Divisional Railway Manager,  
Central Railway, Bombay VT.
3. The Sr. Divisional Commercial  
Manager, Central Railway,  
Bombay V.T.

...Respondents.

By Advocate Shri V.S.Masurkar.

O R D E R

(Per Shri Rafiquddin ,Member (J))

This OA has been filed in representative capacity by Shri M.L. Bilonia , Vice President, Enquiry-Cum-Reservation Staff Association, Central Railway Bombay and one Shri A.R. Subramaniam Applicant No.2. The relief sought by the applicants is that a direction be issued to the respondents to award the benefit of restructuring of grades from 1.1.1986 as per guidelines of the Railway Board.

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2. The members of the applicants' association are working as Enquiry-cum-reservation Clerks under Divisional Railway Manager, Bombay VT at different places namely , Bombay VT, Dadar, Kalyan, Pune etc. The Divisional Office, Personnel Branch, Bombay VT vide order dated 30.11.1990/5.12.1990 issued the order of restructuring of Cadre Review of Enquiry-Cum-Reservation clerk (ECRC), which resulted in creation of four grades of ECRC namely Rs. 2000-3200 being the highest grade and Rs. 1200 - 2040 in the lowest grade and Rs. 1600 - 2660 and Rs. 1400 - 2300 being intermediant grades. The applicants claim that the restructuring of the aforesaid grades should be given effect from 1.1.1986 whereas the C.P.O. has taken four years to implement the order of the Railway Board and DRM, VT has taken on year to implement the order of the Headquarters. Since the representation tated 15.2.1991, 19.12.1991, 24.4.1992, 18.12.1992, 16.6.1993 and 13.12.1993 made by the ECRC staff have not yet been replied. Hence the present OA has been filed.

3. The respondents in their counter reply have contested the claim of the applicants on the ground that the cadre review of the applicant was done by the C.P.O. vide letter dated 30.10.1990 and the benefits has been extended with effect from 1.10.1990 in terms of the aforesaid letter. It is further stated that cadre review is done periodically and in the present case the administration has decided the same in the year 1990 vide C.P.O letter dated 30.10.1990. The performa benefits have been extended with effect from 1.10.1990 with a direction that the actual benefit will effect from the date the applicants will take up new assignments. The Ministry of Railways vide their letter dated 20.12.1993 revised the adhoc percentage of ERC cadre in the ECRC

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cadre based on the adhoc presentage prescribed for ECRC cadre. A review was taken on 1.4.1989 after adopting revised percentage of post in different cadre in each Division. The respondents have also taken the plea of claim petition being time barred.

4. We have heard the learned counsels for both parties and perused the records.

5. The learned counsel for the respondents have urged that the claim of the applicants' is barred by time because the cause of action arose in the year 1986 whereas the present application has been filed in 1994. We do not find force in the argument because the cause of action arose only when the office order (Annexure I) was issued by respondent No.2 in the year 1990. Besides on behalf of the applicants representations have been made for grant of benefit from 1.1.1986 during the period from 1991 to 1994. Consequently the claim petition cannot be said to be barred by time.

6. The restructuring of cadre review of ECRC Bombay Division was carried out in terms of the order dated 30.10.1990 (Annexure A). The relevant portion of the aforesaid letter is extracted as under:

Central Railway

Headquarters Office

Personnel Branch

No.HPB/778/PC IV/R/C/VII

Bombay VT Dt. 30.10.90.

DRM(P) BB BSL NGP JHS JBP BPL SUR

Sub: Review of Group 'C' and 'D' (Class III & Class IV) cadres on Railway - Enquiry-cum-Reservation cadre.

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The Ministry of Railways vide their letter no.PC.III/80/UPG/19 dated 20.12.1993 have inter-alia revised the adhoc percentage of posts in ECR cadre.

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2. Based on the adhoc percentages prescribed for ECR cadre, a review has been under taken as on 1.4.89. Sanctioned strength of ECR cadre as on 1.4.89. Duly verified by the respective Accounts Officers & the revised distribution of posts after adopting revised percentages of posts in different grades for each Division is indicated in attached statement. The distribution will be effective from 1.10.90.
3. This has the approval of the CCS.

Sd/-

S.K. Iyer

For Chief Personnel Officer(Comm)

In pursuance of this letter the impugned office order (Annexure I) dated 30.11.90/5.12.90 was issued from the office of the Divisional Office, Personnel Branch, Bombay VT. It, inter-alia, mentions that the sanctioned strength of ECRC cadre (Station wise as well as cadre wise) 27 posts of ECRC cadre have been up-graded as a result of cadre review. The names of staff who were benefited by this restructure have also been mentioned in the order. It also mentions that the staff at serial No. 1 to 3 has been promoted as ECRC in grade Rs. 1400 -2300 (RPS) against the existing vacancy under CRI VT, the staff at serial No.4 to 24 has been promoted as ECRC in Grade Rs.1400-2300(RPS) against the cadre review against the restructuring of ECRC Cadre with effect from the date they take on and staff at serial No.25 to 31 has been transferred in the same grade due to reduction of ECRC post in Grade Rs. 1200-2040 (RPS) of the existing station on account of restructuring. It is also provided in this office

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order that payment of promotional grade will be eligible only after completion of 22 days from the date they take over charge of the higher grade post.

7. The learned counsel for the applicants has urged before us that the delay for implementing the order of the Railway Board regarding restructuring of the ECRC cadre was caused due to the in-action on the part of the respondents No. 2 and 3. The benefit of up-graded cadre should have been granted to the beneficiaries from 1.1.1986 being the date of implementation of the recommendations of the IVth Pay Commission. In support of this argument the learned counsel for the applicant has referred to the explanatory memorandum issued by the Secretary, Railway Board, copy of which has been filed as Annexure 8. We have examined the contents of the aforesaid explanatory memorandum in which it has been provided that the Railway Service (Revised Pay) Rules 1986 have been made to implement the recommendation of the IV th Pay Commission with respect of pay scale in the grade of 'B' , 'C' and 'D' employees of the Railways. The Government has decided to give effect to the said recommendation from 1.1.1986, in order to provide greater benefits to the Government servant in general. We are not impressed by this argument of the learned counsel for the applicant because this memorandum relates to the implementation of the recommendations of IVth Pay Commission with effect from 1.1.1986. But we find in the present case that the restructuring or review of the ECRC cadre at Bombay Division was not carried out on the recommendation of the 4th Pay Commission. Commission. We find force in the arguments of the learned

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counsel for the respondents that the cadre review is carried out periodically on the basis of letters issued by the Railway Board. Consequently the benefit of the upgraded pay scales to the applicants cannot be granted with effect from 1.1.1986 as claimed by them.

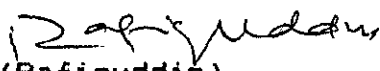
8. It is noticed from the letter dated 30.10.1990 (Annexure A) that regular Group 'C' and 'D' cadre on Enquiry-cum-Reservation Clerk has been done on the basis of Ministry of Railway's letter dated 20.12.1983, taking sanctioned strength of ECRC cadre on 1.4.1989. It is also mentioned in the aforesaid letter that the distribution on the post will be effective from 1.10.1990. The respondents in their counter reply clearly admitted vide para 13 that proforma benefits have been extended from 1.10.1990 to the applicants. However the actual benefits have granted only from the date of their taking up the new assignment.

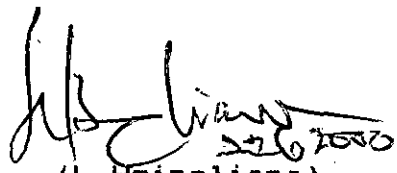
9. The learned counsel for the applicants has referred to the case namely " Union of India V/s K.V. Janakiraman (AIR 1991 SC 2010) In which it was held that when an employee is completely exonerated meaning thereby that he is not found blameworthy in the least and is not visited with the penalty even of censure, he has given the benefit of the salary of the higher post along with the other benefits from the date on which he would have normally been promoted and not from the date of issue of order. The respondents have admittedly granted notional benefits to the applicants with effect from 1.10.1990 in terms of order dated 30.10.1990 (Annexure A).

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10. However, we find from the perusal of the impugned order that the respondents have also added one more condition that promotional grade will be eligible only after completion of 22 days from the date they take over charge of the higher grade post. We fail to understand the reason for adding such condition by the respondents. No reason whatsoever has been disclosed by the respondents for putting such condition for grant of actual benefit of higher grade to the applicants after completion of 22 days from the date they took over charge. We, therefore, struck down this condition in the impugned order being un-reasonable and imposed in arbitrary manner. Since it is clearly mentioned in the order dated 30.10.1990 (Annexure A) that benefit will be granted with effect from 1.10.1990, hence the applicants are eligible for getting higher grade from that date. The question of denying benefit of higher grade to the applicants for the period of notional promotion with effect from 1.10.1990 also does not arise, in view of the Apex Court case cited above.

11. Consequently we allow the DA partly and direct the respondents to grant the benefit of higher grade as a result of restructuring of ECRC with effect from 1.10.1990 to all the applicants. Necessary orders will be passed within three months from the date of communication of this order by the respondents. No order as to costs.

  
(Rafiquddin)  
Member(J)

  
(L. Hmingliana)  
Member(A)

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~~M.P. No. \_\_\_\_\_  
for extension of  
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on~~  
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