

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 1054/99

Date: 19th June, 2002

Between:

1. A.V.S.Kumar
2. S.Kamalakara Rao.
3. S.Srinivasa Rao
4. R.K.Dutta
5. B. Sambaiah
6. M. Subrahmanyam
7. K. Suribabu
8. P. Siva Ramakrishna
9. A.V.V.S. Prasad
- 10.K.V.S.Subramanyam
- 11.K.C.G.Kishore
- 12.P. Joji Babu
- 13.G.S.Syamala Rao
- 14.P.Kailashnath Kumar

.. Applicants

A N D

1. General Manager,
South Eastern Railway,
Garden Reach,
Calcutta - 43.
2. Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Calcutta - 43.
3. Divisional Railway Manager(P)
South Eastern Railway,
Dondaparthy,
S.E.Railway,
Visakhapatnam.
4. Secretary,Railway Sports
Control Boafd,
Railway Bhavan,
Railway Board,
New Delhi.

.. Respondents

Counsel for the applicants : Mr.P.Satyanarayana for
Smt.N(P) Anjana Devi

Counsel for the respondents : Mr. N.R.Devraj.

CORAM:

Hon. Mr. M.V. Natarajan, Member (A)
Hon. Mrs. Bharati Ray, Member (J)

O R D E R
(Per Hon. Mrs. Bharati Ray, Member(J))

This application has been filed against the inaction on the part of the respondents in implementing the circular letter No.RSCD/RSO/Policy/86 dt. 21-02-1986 issued by the 5th respondent and fixing the pay at the maximum of grade to the applicants who ~~were~~ appointed under the sports quota and ~~paying~~ the arrears from the respective dates of recruitment and to continue to pay on par with the juniors of the applicants appointed after 21-2-1986.

2. Some of the applicants herein,earlier approached this Tribunal in OA 121/94 challenging the Estt. Sr.Circular No. 46/93 by declaring it as discriminatory, illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and for further direction to the respondents to extend all the benefits extended to their juniors by proceedings dt. 4-11-1992 of Divisional Railway Manager(P), South Eastern Railway, w.e.f. the date of initial appointment of the applicants with all consequential and attendant monetary and other benefits. This Tribunal while disposing of the said OA observed that the impugned Estt.Sr.Circular No.46/93 is not in consonance of the policy decision taken by respondent no.5 therein and that the said circular

should not have been issued without proper approval of respondent no.5 and took the view that the impugned Estt.Srl.Circular No.46/93 insofar as it refuses to fix the pay of the sports quota appointees appointed earlier to 21-2-1986 at the maximum pay of the said category in which they were appointed is concerned has to be set aside and passed the following order:

- "(i)The Estt.Srl.Circular No.46/93 dt. 6-4-1993 insofar as it refuses to fix the pay of the Sports quota appointees appointed earlier to 21-2-1986 at the maximum pay of the said category in which they were appointed is set aside;
- (ii)Respondent no.2 is further directed to approach Respondent no.5 to ascertain the purport of respondent No.5's letter dated 21-2-1986 and on that basis issue a fresh circular in this connection.
- (iii)A decision in this connection should be taken and communicated to the concerned within a period of four months from the date of receipt of a copy of this order. "

3. The relevant para-3 of the Estt.Srl.

Circular No.46/93 is reproduced below:

"Therefore, while fixing up the pay in cases of appointment made in Group 'D' post against sports quota, the following clarifications should be kept in view:

- i) The cases of appointment made in Gr.'D' category against sports quota on or after 21-2-1986 may be reviewed in terms of RSCB's letter No.RSCB/RSQ/Policy/86 dt.21.2.1986 and the benefit for fixation of pay at the maximum of grade may be processed to be effected in the eligible cases from the date of appointment of the candidate.
- ii) Sports persons recruited prior to 21-2-1986 cannot be extended the benefit of fixation of pay at the maximum of the grade;
- iii) Those who are recruited against sports quota below the age of 18 years, should be reckoned as youngsters and they would, therefore, not be eligible for fixation of pay at the maximum of the grade."

4. It is pertinent to mention in this context that respondent no.2 has interpreted the letter No.RSCB/RSQ/Policy/86 dated 21-2-1986 and issued the ~~Estt.Srl~~ Circular No.46/93. The letter dt. 21-2-1986 issued by respondent no.5 is reproduced below :

"Cases have been brought to the notice of this Board that Sports men are being fixed at the start of the grade(s) at the time of initial recruitment against sports quota.

It may please be ensured that such recruitments are made with fixation of pay at the maximum of grade, unless the sportsmen so recruited are complete youngsters."

5. The applicants in OA 121/94 filed CP 22/98 against the respondents therein against non implementation of the order passed by this Tribunal on 31-3-1997. On the date of hearing of the CP, the Estt.Sr.No.201/98 was produced by the respondents to show their compliance and the CP was closed with the following order :

"Today the learned counsel for the respondents produced the establishment Sl.No.201/98 which circular was endorsed to the respondents counsel by letter dt. 30-10-98 by the D.R.M. Waltair. This letter is taken on record. In view of the above circular the learned counsel for the respondents submit that the direction in the OA has been complied with. The above circular was also seen by the learned counsel for the applicant and he is satisfied with the same. "

6. Estt.Srl.Circular No.201/98 is reproduced below :

"Estt.Srl.No.46/93 containing instructions regarding extension of benefit of fixation of pay at the maximum of grade to those railway employees who were appointed in Gr.'D' category against sports quota on or after 21-2-86 is treated as cancelled."

7. The applicants have filed this application claiming the relief as stated above.

8. The grievance of the applicants in the present OA is that even after the order passed by this Tribunal in OA 121/94 the respondents are not

extending the benefits to the applicants by implementing the Estt. Sr.Circular No.201/98.

9. Respondents in their reply statement submitted that, pursuant to the order passed by this Tribunal in OA,121/94, Estt.Sr.Circular No. 201/98 had been issued by the competent authority after ascertaining the purport of respondent No.5's letter dt. 21-2-1986. According to Estt.Srl. Circular No.201/98, sports personnel appointed in Gr.D category cannot be extended the benefit of fixation of pay at the maximum of the grade and therefore the question of extending the benefit of pay in terms of Estt.Sr.Circular No.46/93 does not arise. It is also stated by the respondents in their counter reply that some of the sports quota recruits who were appointed after 21-2-86 were given maximum pay in Gr.D which is now to be modified in terms of CPO/GRC Est.Srl. No.201/98 and that persons given maximum pay in terms of Estt.Srl.Circular No.46/93 were already issued with show cause notice in the interest of natural justice and their pay will be revised in due course after following the procedure of law, and that being the position, the applicants are not at all entitled to get the relief claimed in the OA.

10. Heard the learned counsel on both sides. We have gone through the material papers placed

also

before us. We have gone through the earlier order passed by this Tribunal in OA 121/94.

11. We find that there was a direction, by on respondent no.2 therein this Tribunal in OA 121/94 to approach respondent no.5 to ascertain the purport of letter dt. 21-2-1986 and on that basis issue a fresh circular. From the written statement we find that pursuant to the order passed by this Tribunal, respondent no.2 has duly ascertained the purport of respondent No.5's letter and issued fresh circular i.e. Estt.Sr.Circular No.201/98(Annexure-1). We also find that earlier, the respondents took a decision to give some benefit to the recruits against sports quota and issued a Estt.Sr.Circular No. 46/93 but the said benefit was given to the sports personnel recruited prior to 21-2-86. This Tribunal in OA 121/94 set aside the said Estt. Sr. circular No.46/93 insofar as it refuses to fix the pay of the sports quota appointees appointed earlier to 21-2-1986 at the maximum pay of the said category in which they were appointed.

12. We find that respondents this time took a decision to withdraw the benefit of fixation of pay given in Estt.Sr.Circular No.46/93, as according to them, sports personnel recruited prior to 21-2-86 cannot be extended the said benefit of fixation of pay at the maximum of the grade. Since refusal of the pay benefit to the appointees appointed prior to

21-2-1986 amounts to discrimination, Estt.Sr. Circular No.201/98 has been issued cancelling the benefit of fixation of pay at the maximum of grade to those railway employees who were appointed in Gr.'D' category against sports quota on or after 21-2-86 too. This being a policy decision we do not find any reason to interfere with the same.

13. We note that the fresh circular has been issued by respondent no.2 in terms of directions given by the Tribunal in OA 121/94. From the reply statement we note that some of the sports quota recruits who were appointed after 21-2-1986 were given maximum pay in Gr.'D' in terms of earlier Estt.Sr.Circular No.46/93 and after the issuance of the Estt.Sr.Circular No.201/98 these persons have already been issued with a show cause notice in the interest of natural justice and their pay will be revised. Applicants in their rejoinder submitted that even today respondents are giving the benefit of Estt.Sr.Circular No.46/93 to some ^{the} _{of} ^{the} juniors of the applicants. They have given pay particulars of some juniors in their rejoinder. However, no document in support of their statement has been enclosed to the rejoinder. It is for the respondents to examine the matter and take necessary action as per rule.

14. In view of the above facts and circumstances we do not find any irregularity in the action taken by the respondents. The claim of the applicants for fixation of their pay at the maximum of grade in terms of Estt. Sr.Circular No.201/98 cannot be granted.

15. We do not find any substance in this application. Application is devoid of any merit and is dismissed with no order as to costs.

Bharati Ray
(BHARATI RAY)
Member (J)

M. V. Narayanan
(M. V. NATARAJAN)
Member (A)

MD

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20/6/2002

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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

COPY TO:

1ST AND 2ND COURT

1. H.V. VICE CHAIRMAN
2. HMVN: MEMBER (ADMIN)
3. HSKA : MEMBER (ADMIN)
4. HBR : MEMBER (JUDL)
5. DEPUTY REGISTRAR(A)
6. SPARE
7. ADVOCATE
8. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY O
APPROVED BY

THE HON'BLE MR. JUSTICE

THE HON'BLE MR. V. NATARAJAN: MEMBER
(ADMIN)

THE HON'BLE MR. S. K. AGRAWAL: MEMBER
(ADMIN)

THE HON'BLE MRS. BHARATI RAY: MEMBER
(JUDL)

DATE OF ORDER

MA/CP/RA. No.

IN

OA. NO.

ADMITTED AND INTERIM DIRECTIONS
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