

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 22-11-04

ORIGINAL APPLICATION NO. 32/2003

R.K. Purohit son of Late Shri Righdutt Purohit aged about 38 years at present working on the post of Yard Master, Railway Station, Phoolera, Jaipur Divison, Resident of 514-C, Railway Colony, Phoolera.

....Applicant

VERSUS

1. The Railway Board through Chairman, Rail Bhawan, new Delhi.
2. The Union of India through the General Manager, North West Railway, Headquarter Office, Jaipur.
3. The Divisional Railway Manager, Jaipur Divisin, North West Railway, Jaipur.

....Respondents

Mr. P.V. Calla, Counsel for the applicant.
Mr. Anupam Agarwal, Counsel for the respondents.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)
Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER

PER HON'BLE MR. M.L. CHAUHAN

The sole controversy involved in this OA is whether the applicant who is the Traffic Apprentice is entitled to the scale of Rs.1400-2300 or Rs.1600-2660 which scale has been made applicable to post 1987 appointees and not to pre 1987 appointees in terms of Railway Board Circular dated 15.5.1987,

2. Arguments in this case were heard on 26.7.2004 and the judgement was reserved. This Tribunal vide order dated 11.8.2004 after taking note of the judgement rendered by this Tribunal in OA No. 20/2003 decided on 06.04.2004, Subhash Chandra Sharma vs. Railway Board and also taking into consideration the judgement rendered by the Apex Court in the case of Union of India vs. M. Bhaskar 1996 SCC 146 which has

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interpreted the Railway Board's Circular dated 15.5.1987 which is also applicable in this case, found that certain clarification is required in the matter and, therefore, released the case for re-hearing while making the following observations:-

During the course of arguments, the learned counsel for the applicant has placed reliance on the judgement rendered by this Tribunal in OA No. 20/2003 decided on 6.4.2004, Subhash Chandra Sharma vs. Railway Board and ors. in which the identical question was involved and this Tribunal has held that the applicant is entitled to the pay scale of Rs.1600-2660 in terms of Railway Board Circular dated 15.5.1987 as the select panel was notified on 2.11.1987 after the cut-off date i.e. 15.5.1987. The stand of the respondents was that since the examination was held pursuant to the notification dated 15.12.1986 which appeared in Rozgar Sandesh being employment News No. 2/86-87, as such the examination was held according to old standards. Therefore, the applicant is not entitled to the higher pay scale of Rs.1600-2660 contemplated vide circular dated 15.5.1987 as well as the decision of the Apex Court in the case of Union of India vs. M. Bhankar, [(1996) 4 SCC 146] whereby the Apex Court has upheld that the respondents therein were recruited pursuant to an advertisement of January, 1985 and so they were not entitled to revised pay scale of Rs.1600-2660 in terms of Railway Board Circular dated 15.5.1987. It was also brought to our notice that the Department has also filed Review Application for reviewing the judgment dated 6.4.2004 passed in OA No. 20/2003, which has not been decided so far. IN order to see that there may not be contradictory judgment, the judgment in the present case was reserved so as to await the decision in the Review Application filed in OA No. 20/2003. The said Review Application has been dismissed by the Bench who has heard the matter earlier vide order dated 30.7.2004. While rejecting the Review Application, the Bench has also placed reliance on the order dated 15.12.1993 (Annexure A6). The name of the applicant figured at sl. No. 8 at Page 41 and against him it has been mentioned that he has undergone training from 24.3.88 to 21.3.90. IN the instant case, no such material has been placed on record as to whether the applicant has undergone training from 24.3.88 to 21.3.90 only for two years, though the applicant in the instant case and the applicant in OA No. 20/2003 were selected pursuant to the same advertisement No. 2/86-87 issued on 15.12.1986. IN the absence of such material, it is not possible to decide this matter. We are saying so because in terms of Railway Board Circular dated 15.5.1987 which has been interpreted by the Apex Court in the case of Union of M. Bhaskar (supra) whereby the Apex Court has held that the benefit of Railway Board Circular dated 15.5.1987 thereby granting higher pay scale of Rs.1600-2660 shall be applicable to those persons who have been assessed according to higher standard of examination and not to the pre-1987 recruits, as they have not qualified the examination according to the higher standard of examination. At this stage, it will be useful to quote clause 2(vii) and 2(viii) of the Railway Board Circular dated 15.5.1987 which is in the following terms:-

"vii) the standard of examination will be higher than is the case at present having regard to the fact that recruitment will be in a higher grade.

viii) In future the period of training for Traffic Apprentice also will be two years as against three years

as against three years as is the case at present."

Thus from the portion as quoted above, it is clear that the scale of Rs.1600-2660 was prescribed vide circular dated 15.5.1987 to those persons who have qualified the examination on the basis of higher standard of examination and from the perusal of clause 2(viii) it is also clear that in future the period of training of Traffic Apprentices will be of two years instead of three years as the case at present. IN order to ascertain whether the applicant was assessed according to the higher standard of examination or not, we directed the respondents vide order dated 1.6.2004 to place the material on record as to what was the standard prescribed prior to 15.5.1987 and after 15.5.1987 in respect of the applicant's category. When the matter was listed for hearing on 26.7.2004, the learned counsel for the applicant placed on record two advertisements No. 2/86-87 published in Rozgar Sandesh dated 15.12.86 which pertains to the applicant as well as advertisement No. 2/87. IN the advertisement No. 2/86-87 dated 15.12.86 against category No. 1 which pertains to Traffic Apprentice following qualification has been prescribed.

Category No. 1 : Traffic Apprentices, pay scale Rs. 1400-2300(RP) No of Posts 41....., Age limit 20 to 28 years, Minimum qualification (1) Graduate from a recognised University or equivalent (2) Diploma in Rail Transport and Management from the Institute of Rail Transport, New Delhi will be preferential qualification, Training 3 years"

Similarly, in respect of advertisement No. 2/87 dated 11.7.87 against category No. 16 Traffic Apprentice the following qualification has been mentioned.

"Category No. 16 Traffic Apprentices (Operating Deptt) Gr. Rs.1600-2600 (RP) 9 Posts (including ES/SC/ST Age 20-28 Yrs. E.Q. Graduate from a Recognised University. Diploma in Rail Transport and Management from the Institute of Rail Transport, New Delhi will be desirable qualification. M.C.A.-2 Training period 2 yrs Exam Fee Rs. 20/-."

If the regard has to be made to these notifications, it is clear that the applicant was required to undergo 3 years of training as against two years prescribed training for the said post, which was issued after the Railway Board Circular dated 15.5.87. Thus, the training period prescribed for pre-recruitees of cut-off date that is 15.5.87 and person who has to be selected pursuant to Railway Board Circular dated 15.5.87 are different. If the effect has to be given to clause 2(vi) of the Railway Board Circular dated 15.5.87, it is clear that the applicant has been assessed according to old standard as in his case he has to undergo 3 years of training whereas in subsequent notification which has been issued after 15.5.87 the period of training for Traffic Apprentices has been prescribed as two years and in terms of clause 2(vii), the person who has undergone two years' training, the standard of examination in their case will be higher. The present OA would have been disposed of on the basis of two advertisements, one issued prior to issuance of Railway Board Circular dated 15.5.87 and another issued after the cutt

off date which prescribes different period of training, but in terms of material placed on record in earlier OA i.e. OA No. 20/2003 whereby Ann. A6 it has been mentioned that the applicant therein has undergone two years of training, it is not understood as to why the applicant therein was allowed to undergo two years training as against 3 years prescribed training as per advertisement No. 2/86-87 issued on 15.12.86? Further it is not clear whether the applicant who has undergone two years of training will be entitled to higher grade as he has completed the training as per higher standard of examination in terms of clause (vii) and (viii) of para 2 of Railway Board Circular dated 15.5.87....."

3. Thus as can be seen from the portion quoted above, the matter was released for re-hearing solely on the ground that scale Rs.1600-2660 in terms of Railway Board Circular dated 15.5.1987 is admissible only to post 1987 appointees who has undergone training on the basis of higher standard of examination and the period of training was two years as against three years which was prevalent for pre 1987 appointees, who has undertaken examination according to old standard. Admittedly in this case, applicants were admitted for training as per old standard i.e. for three years but in fact they have undergone training only for two years as per the Railway Board Circular dated 15.5.1987 and the opportunity was given to the respondents to file Affadavit as to why applicants are not entitled to higher scale of pay of Rs.1600-2660.

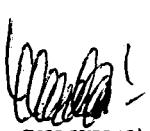
4. The respondents have filed Additional Affadavit, reconciling the discrepancy with regard to the period of training undergone by the applicants as against the period of training as per the advertisement. IN the Additional Affadavit, respondents have stated that although applicant was admitted for training as per the old standard i.e. for three years but subsequently due to administrative exigencies of the administration and other relevant factors and the fact that subsequent training was to be for a period of two years only as per modified training programme, the training was curtailed. The respondents have also placed on record the copy of the direction of Railway Board authorised to reduce the training on the terms and conditions and safeguards mentioned therein. Copy of the direction dated 11.2.1988 is annexed as Annexure R/1. It is further stated in the Additional Affadavit that the period of training to the Apprentices undergoing training programme as per the old standard of three years was curtailed in the case of applicants to 25 months instead of 36 months. The copy of the letter written by the General Manager to Principal ZTS Udaipur is also placed on record as Annexure R/2. Thus according to the respondents, the applicant has undergone training programme as per the old standard and he was admitted for training for three years as per old standard but due to administrative exigency and authority so

granted by the Railway Board, General Manager has curtailed the period of training of three years to 25 months. Thus he cannot be entitled for higher pay scale of Rs. 1600-2660 as per the circular dated 15.5.1987.

5. Thus from the material placed on record, it is established that applicant was admitted for training as per the old standard. Their period of training was reduced to 25 months instead of three years. It is also borne out from the record that applicant has undergone examination prior to cut off date - 15.5.1987 and that he was sent for training and completed training after Circular dated 15.5.1987 and in his case, training period was reduced to 25 months from three years. We have also specifically recorded vide order dated 11.8.2004, relevant portion which has been reproduced herein above, that the scale Rs.1600-2660, ^{granted} vide Circular dated 15.5.1987 was applicable to those persons who had qualified the examination on the basis of higher standard of examination. From the perusal of Clauses 2(vii) and 2(viii), it is also clear that in future training of Apprentice will be of two years instead of three years and the benefit of higher scale of pay of Rs.1600-2660 in terms of Circular 15.5.1987 is available only to post 1987 appointees who have undergone training in terms of higher standard and not to those appointees who has undergone examination according to old Scheme. The respondents have also given explanation under what circumstances the period of training of three years was reduced to 25 months. Thus on the basis of material placed on record, the applicant would not have been entitled to the higher scale of pay of Rs.1600-2660 but according to us, the present matter does not rest here. The respondents have themselves granted higher scale of Rs.1600-2660 to the applicant in OA No. 20/2003, Subhash Chandra Sharma vs. Railway Board and other persons who are similarly situated to that of applicant. Thus it will be highly unjust if the applicant in this OA is not granted the similar relief especially when the learned counsel for the respondents pursuant to the querry raised by this Tribunal, has stated that the respondents have not filed Writ Petition against the judgement dated 06.4.2004 in the case of Subhash Chandra Sharma (supra).

6. Accordingly, the present OA is allowed. The respondents are directed to extend the benefit of Circular dated 15.5.1987 and to fix the pay of the applicant in the pay scale of Rs.1600-2660 from the date of appointment with all consequential (monetary) benefits. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(A.K. BHANDARI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)