

Central Administrative Tribunal
Jabalpur Bench

OA No.1173/05

Jabalpur, this the 12th day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.M.K.Gupta, Judicial Member

1. Niranjay Verma
S/o Shri Babulal Verma
2. D.K.Baghel
S/o Shri Gandu Lal
3. Mohd.Ismail Khan
S/o Shri Hanif Khan
4. Ram Prasad
S/o Shri Teji Lal
5. Kastur Chand Prajapati
S/o Shri Ram Prasad Prajapati
6. Bahoran Lal
S/o Shri Ram Swaroop
7. K.N.Thakur
S/o Shri Ram Nath Thakur
8. G.K.Pare
S/o Shri M.D.Pare
9. Mohd.Sadique
S/o Mohd.Siddique
(All applicants C/o Niranjay Verma
R/o Qrs. No.RB-II/RE-Block No.1
DRD Colony, Nishadpura
Bhopal.

Applicants

(By advocate Shri S.Paul)

Versus

1. Union of India through
The General Manager
West Central Railway

Indira Market
Jabalpur.

2. The Divisional Railway Manager
West Central Railway
Bhopal Division
Bhopal. Respondents.

(By advocate Shri M.N.Banerjee)

O R D E R (oral)

By M.K.Gupta, Judicial Member

Nine applicants in this OA seek direction to respondents to release first class privilege passes for the year 2005-06 with consequential benefits.

2. Admitted facts are that applicants were initially appointed as Casual Labourers in the year 1987 and conferred temporary status in 1987-88. Subsequently they were appointed as Electrical Wireman Gr.III and Electrical Fitter Gr.III. At present, they are in the pay scale of Rs.5000-8000/- . Their grievance is that they have been denied first class privilege passes even after reaching pay of Rs.5375/- in the said scale in the year 2000. Representations made on the said aspect elicited no favourable response. They are entitled to first class privilege passes in accordance with rules i.e. Railway Servants (Pass) Rules, 1986. Inaction of respondents in releasing such passes is arbitrary, unjust and unreasonable. Their just and genuine request was rejected despite the fact that they have legal right to enjoy first class privilege passes.

3. Respondents contested the claim stating provisions of Para 2005 chapter XX of IREM Vol.II, which deals with "Entitlements and Privileges" admissible to casual labour. The 1986 Rules were inapplicable. Identical issue had been considered by this Bench of the Tribunal in OA No.981/04 - Arvind Khate vs. Union of India and vide order dated 18th August 2005 the said claim for first class privilege passes had been turned down.

4. Shri M.N.Banerjee, learned counsel for respondents pointed out that applicants were in pay scale of Rs.1200-2040/-, which was revised to Rs.4000-6000 pursuant to the recommendations of the 5th CPC. Applicant Nos.5, 7 & 8 were in pay scale of Rs.4500-7000/- while rest of the applicants were in the pay scale of 5000-8000/-.

5. We heard learned counsel for the parties and perused the pleadings carefully. On a careful consideration of all aspects of the case, particularly the order dated 18th August 2005 in OA No.981/04 vis-à-vis the pleadings of the present case, we find that the grievance and the issue raised in the present OA is no longer *res-integra*. It would be expedient to note Paras 5 & 6 of the said order, which reads as under:

“5. After hearing learned counsel for both sides and carefully perusing the records, we find that admittedly the applicant has attained temporary status on 16.5.88 as a Daily Rated Casual Labour HSTM. We have perused Railway Board's letter dated 14.1.2000 (Annexure A5) in which it is mentioned that the employees who joined Railway Service during the period from 1.4.67 to 10.11.87 will be governed by the first class pass eligibility conditions. It is nowhere mentioned in the letter that the employee should have attained temporary status but on the other hand, according to Para 2005 of IREM – “Entitlements and Privileges admissible to Casual Labour, they are treated as temporary (i.e. given temporary status) after completion of 120 days or 360 days of continuous employment (as the case may be – (a) Casual Labour treated as temporary are entitled to the rights and benefits admissible to temporary railway servants as laid down in Chapter XXIII of this Manual. The rights and privileges admissible to such labour also include the benefit of D&A Rules”. The arguments advanced on behalf of the respondents is that the privilege to a casual labour would start from the date on which he attains temporary status. It is an admitted fact that the applicant has acquired temporary status on 16.5.1988 i.e. after 10.11.87. The applicant has also mentioned in the OA that he was drawing Rs.5450/- as on 1.6.2000. The applicant was drawing the pay scale of Rs.1200-2040/- which was revised to Rs.4000-6000/- pursuant to the recommendations of the 5th CPC. Hence during the period from 1.8.69 to 10.11.87 the applicant was not drawing Rs.5375/- or above in the pay scale, the maximum of which is Rs.7000/- or above.

6. Considering all facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly the OA is dismissed. No costs.”

6. It is not the case of applicants that any one of them had been drawing Rs.5375/- or above in the pay scale in between 1.8.69 to 10.11.1987. Following aforesaid judgement passed by this Bench of the Tribunal, we find no merit and justification in the present claim and accordingly we hold that the applicants are not entitled to first class privilege passes, as claimed. Accordingly, finding no merits in the claim, the OA is dismissed. No costs.

(M.K. Gupta)
Judicial Member

(Dr. G.C. Srivastava)
Vice Chairman

aa.

पूरांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि लाभो भित्ति:-

- (1) श्रीमित्र, उच्च वकायदार कार एकाडेमियन, जबलपुर
- (2) आकेश श्री/स्त्री/मु..... के काउंसल
- (3) प्रत्यक्षी श्री/स्त्री/मु..... के काउंसल
- (4) वांधवल, लेपांडा, जबलपुर एवं विदेश
सूचना एवं आवश्यक कार्यवाही देते

S. Paul - AV/JSB
M.K. Srivastava
DR/JSB

CC/JSB/600 उमिरदार
15/12/16

Despatched
on 15/12/16
D