

Central Administrative Tribunal
Jabalpur Bench

OA No.981/04

Indore this the 18th day of August, 2005.

C O R A M

Hon'ble Mr. M.P.Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Arvind Khare
S/o Shri Ramswaroop Khare
Junior Engineer-II (Works)
General Manager's Office
Indira Market
Jabalpur.
R/o C/o Vijayraj Pateria
1815 Wright Town
Jabalpur.

Applicant

(By advocate Shri V.Tripathi)

Versus

1. Union of India through
Secretary
Ministry of Railway through
General manager
West Central Railway
Indira Market
Jabalpur.
2. The Chief Personnel Officer
West Central Railway
JDA Building, Civic Center
Jabalpur.
3. The Chief Engineer (HQ)
West Central Railway
Indira Market
Jabalpur.

Respondents

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member



By filing this OA, the applicant has sought the following reliefs:

- (i) Declare that the action of the department in not issuing the First Class Privilege Passes to the applicant for the year 2003-2004 is bad in law.
- (ii) Direct the respondents to pay the difference of first class pass and second-class pass to the applicant forthwith with interest on delayed payment
- (iii) Direct the respondents to continue to issue/release first class privilege passes in accordance with rules.

2. The brief facts of the case are that the applicant was initially engaged as Daily Rated High Skilled Technical Mistri (HSTM) in the pay scale of Rs.1200-2040/- which was revised as Rs.4000-6000/- pursuant to the recommendations of 5th CPC with effect from 1.1.96. After being granted temporary status with effect from 16.5.88, the applicant joined as Apprentice IOW Gr.III/Junior Engineer Gr.II (Construction) on 30.6.1997 in the grade of Rs.5000-8000/-. As per the Statutory Rules of the Central Government under the proviso to Article 309 for grant of privilege passes, the applicant became entitled to get First Class Passes when he started drawing pay more than Rs.5375/-n in his pay scale. His pay reached Rs.5450/- on 1.6.2000. Accordingly First Class Privilege Passes were issued to him on 11.9.2000. The last such passes were issued to him till 17.9.2002. For the year 2003 & 2004, in spite of the entitlement of the applicant to get first class passes, the respondents issued second-class passes to him. Aggrieved by the denial of first class passes, the applicant made a series of representations, which elicited no response. Feeling aggrieved by the inaction of the respondents, the applicant has filed this OA.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the action of the department in issuing second class passes to the applicant in spite of his entitlement to get the first class passes runs contrary to the Pass Rules and the circular issued by the Railway Board. Our attention is drawn towards Annexure A4 – Railway Servants (Pass) Rules, 1986 – in which it is mentioned that



two conditions are to be fulfilled for first class passes. Firstly, the employee should have been appointed during the period from 1.8.69 to 10.11.87 and secondly he should be drawing pay of Rs.5375/- or above provided he is in a scale, the maximum of which is Rs.7000/- or above. The learned counsel has further drawn our attention towards Railway Board's letter dated 10.11.87 in which it is mentioned that the employees who joined Railway Service during the period from 1.4.87 to 10.11.87 will be governed by the First Class Pass eligibility conditions. In this letter, it is nowhere mentioned that the employee should have attained temporary status. The learned counsel further argued that Chapter XX of IREM Vol.II (Para 2005), relied on by the respondents, is not applicable in the case of the applicant. Hence the applicant is legally entitled for the relief claimed.

4. In reply, learned counsel for the respondents argued that the applicant was engaged as daily rated casual labour HSTM on 21.5.1987 and was granted temporary status on 16.5.88 after completion of 360 days regular working. He is claiming the relief by taking his date of engagement in casual labour capacity i.e. 21.5.1987. As per the extant rules as contained in Chapter XX of IREM Vol.II (Para 2005), only those casual labours who attain temporary status after completion of 120 days or 360 days of continuous employment are entitled for the benefit of privilege passes. His entitlement for the benefit will be counted from the date of his attaining temporary status i.e. 16.6.88. As the applicant was granted temporary status only on 16.5.1988 i.e. after 10.11.87, the cut off date mentioned in the circular Annexure A5, the applicant is not entitled for first class pass benefit.

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 acquired temporary status but on the other hand, according to para 2005 of IREM- "Entitlements and Privileges admissible to Casual Labour who are treated as temporary (i.e. given temporary status) after the 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.


(Madan Mohan)
Judicial Member

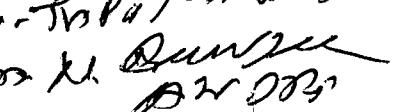

(M.P. Singh)
Vice Chairman

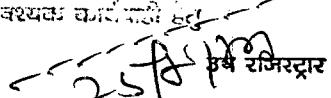
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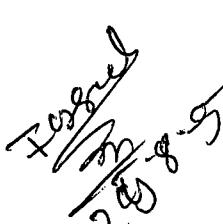
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घ लिलिपि ०८०२५५८८५८

- (1) सहित उत्तराधिकारी, राज राज्य विभाग, जबलपुर
- (2) अधिकारी श्री अमित देव,के कार्यालय
- (3) प्रधारी श्री/कोर्टनी/कु.के कार्यालय
- (4) गंगाधार, गो. ना. राज राज्य विभाग

सूचना एवं उत्तराधिकारी कार्यालय के


V. T. Pathak, DMS

M. Banerjee, DMS


T. S. Singh, DMS


T. S. Singh, DMS