

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 20th day of April, 2011

ORIGINAL APPLICATION NO. 443/2007

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Musthtaq Mohammad son of Shri Mohammad Ishaq, aged about 42 years, resident of Sanjay Nagar, Near Golu Kirana Store, Shamsan Road, Kota Junction and presently working as Office Superintendent Grade II, Operating Branch, West Central Railway, Kota Division, Kota.

.....Applicant

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through the General Manager, West Central Zone, West Central Railway, Jabalpur.
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.

.....Respondents

(By Advocates: Mr. T.P. Sharma)

ORDER (ORAL)

The main grievance of the applicant is regarding the arbitrary, illegal and unjustified action of the respondents in connection with not assigning him the correct seniority on medical decategorisation from the cadre of Guard to cadre of Office Superintendent Grade II inspite of fact that pay scale of Guard was revised after joining of duties as Head Clerk and respondents had also allowed arrears from 01.01.1996 till absorption relating to difference of pay and allowances to the cadre of Guard. Initially, the applicant was selected as Goods Guard and was appointed on 08.11.1990 in Ajmer Division and on his request; he was transferred to Kota Division on 20.08.1993.



2. The applicant go through periodically medical examination in the year 1996 and medical Superintendent declared him medically unfit for de-category of Goods Guard and found fit in 'A' two medically category and thereafter on the recommendations of screening committee applicant absorbed as Head Clerk, scale Rs.1400-2300, by the respondent no. 2 vide order dated 29.11.1996. The respondents have conducted selection to the post of Chief Clerk, scale Rs.1600-2600/ 5500-9000/- in which the name of the applicant also appeared, being eligible, and his name was shown in list 'A' of eligibility and declared selected vide letter dated 02.02.1998 and further allowed promotion in the scale of Rs.5500-9000/- as Chief Clerk vide order dated 07.04.1998.

3. The Central Pay Commission gave its recommendations in the month of September, 1997, effective from 01.01.1996 and prior to that, the applicant joined as Head Clerk in the scale of Rs.1400-2300/- taking into consideration of scale Rs.1200-2040 to the post of Goods Guard and after recommendations of Vth Pay Commission cadre of Goods Guard allowed scale Rs.4500-7000/- w.e.f. 01.01.1996. It is also contended on behalf of the applicant that the respondents allowed the benefit in similar circumstances to one Shri P.S. Mathuriya, Chief Trains Clerk, vide order dated 13.04.2000 but not allowed the similar benefit to the applicant.

4. Learned counsel for the applicant submitted that respondents after reconsideration of the matter passed the order dated 03.05.2005 and all the benefits which have been extended to the applicant vide



order dated 20.10.2004 were held abeyance till further order. It is not disputed that the applicant has not challenged this order at the relevant point of time.

5. Per contra, learned counsel for the respondents submitted that Special Medical Examination and Chief Medical Superintendent declared the applicant fit in A-2 Medical category with the recommendation of change of job permanently where right duty is not involved. Therefore on the recommendation of the screening committee, the applicant absorbed as Head Clerk in the pay scale of Rs.1400-2300 vide order dated 29.11.1996 keeping in view the Railway Board's letter dated 10.01.1992 in which the running category Goods Guard, scale Rs.1200-2040(RP), was shown equivalent to the grade of Rs. 1400-2300 in stationery posts.

6. The respondents issued a seniority list of Office Superintendent Grade II in the pay scale of Rs.5500-9000/- vide letter dated 28.03.2003 in which the name of the applicant was placed at sr. no. 15, against which the applicant agitated the matter and in considering the request made therein, the applicant was allowed the seniority of scale of Rs.5500-9000/- w.e.f. 02.12.1996. The respondents passed the order dated 18.09.2003 treating the applicant as absorbed on the post of OS-II in the pay scale of Rs.5500-9000/- w.e.f. 29.11.1996.

7. Learned counsel for the respondents has drawn our attention towards scale of Goods Guard i.e. scale of running staff i.e. Rs.1200-2040 and scale of Stationary staff which equated to Rs.1400-2300 and on the recommendations of the Medical Officer, the applicant was



absorbed to the post of Head Clerk. Since the Railway Board's letter dated 10.01.1990 was enforced at a time, therefore, it has been decided that the running staff may be accommodated with the stationery staff equivalent to the Goods Guard and since the pay of the Goods Guard was Rs.1200-2040 and which was the scale of Stationery Post which is equal to the Goods Guard in the pay scale of Rs.1400-2300/-. Learned counsel for the respondents further submitted that the applicant was rightly considered by the Railway Administration on the respective post and equaling the pay scale of the cadre.

8. Upon perusal of the impugned order dated 15.06.2007 (Annexure A/1), it reveals that the applicant was appointed as Head Clerk in the pay scale of Rs.1400-2300 vide letter dated 29.11.1996 and pursuant to this order, the applicant resumed his duties on 02.12.1996 and was further nominated for promotion in the scale of Rs.1600-2660/5500-9000. The name of the applicant was shown under One Shri Manoj Jain and above one Shri Kirorilal Meena. Further the applicant failed to challenge the impugned order dated 03.05.2005 by which the letter dated 20.10.2004 (Annexure A/12) through which the benefits were extended to the applicant has been held in abeyance. Having consider the pay scale prescribed for the Goods Guard, running staff and of stationary post, the applicant has been rightly been promoted on the post of Office Superintendent II in the pay scale of Rs.5500-9000/- and was correctly assigned the seniority as indicated in the impugned order dated 15.06.2007 (Annexure A/1). Thus we find no merit in the present OA and the same deserves to be dismissed.



9. With these observations, the OA stands dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K.S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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