

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 12th day of May, 2011

ORIGINAL APPLICATION NO. 482/2009
WITH
MISC. APPLICATION NO. 95/2011

CORAM

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

Harbans Lal Verma son of Shri HagoVind, aged about 60 years, resident of 386-A, Malviyanagar, Near Satkar Shoping Centre, Jaipur. Last employed on the post of Guard Mail/Express at Kota in West Central Railway.

.....Applicant

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

VERSUS

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

.....Respondents

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

ORDER (ORAL)

By way of this OA, the applicant has praying for the following reliefs:-

"(i) That the impugned order dated July 2009 (Annexure A/2) passed by the 2nd respondent may be declared illegal and the same be quashed. The respondents may be directed to reckon the period of departmental training spent by the applicant during the period from 10.12.1971 to 13.08.1976 towards qualifying service for pension as per R BE 13/1995 (Para 4(6), above) and the applicant's gratuity may be calculated on the basis of his total qualifying service of 38 years and also correctly on the basis of last pay drawn by him. The due amounts may be paid alongwith interest at market rate. The impugned PPO Annexure A/1 may be ordered to be modified accordingly.



(ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(iii) That the cost of this application may be awarded."

2. Brief facts of the case are that the applicant was selected for the post of Apprentice Mechanic Chargeman by the Railway Service Commission CCG Bombay in 1971. He was deputed for undertaking requisite training in STS, Ajmer under the Deputy CME (C&W), Ajmer on 10.12.1971. As the applicant was not able to cop up with the course properly, therefore, his Deputy CME (C&W) advised him to change to another category. Hence the applicant applied through proper channel for the post of Guard in 1974 as per the notification of RSC Bombay and his application form was forwarded to the Railway Service Commission with the 'No Objection Certificate', he was selected for the post of Guard and was deputed for training vide letter dated December, 1975.

3. After completion of the training, the applicant joined the post of Goods Guard in Ajmer Division on 13.08.1976. It is relevant to mentioned that applicant was paid stipend during the period of his training for the post of Mechanic i.e. 10.12.1971 to 06.03.1976 and even after change of category; the competent authority set the matter at waived the recovery of the amount paid as stipend during the said period of training.

4. The applicant was promoted to the post of Guard/Mail Express in 1993 and was retired from service on attaining the age of superannuation on 31.03.1976. A PPO No. 97/2009 was issued by the



respondents. As his date of appointment has been taken as 13.08.1976, his qualifying service is reckoned as 31 years, 2 months and 28 days. The period of training from 10.12.1971 to 06.03.1976 and from 06.03.1976 to 13.08.1976 spent on the departmental training for the post of Mechanic and Guard, respectively, have not been counted as qualifying service for the grant of pensionary benefits including the gratuity.

4. The grievance of the applicant in this OA is that his qualifying service has been counted from the date of joining on the working post i.e. 13.08.1976 and not from the date of joining the departmental training course i.e. 10.12.1971. Had the training period been counted, his qualifying service would have been more than 33 years and he would have got the full amount of gratuity. The applicant also referred to RBE No. 23/1995 for the purpose of counting of period spent of training before appointment to service as qualifying for pension, which is reproduced as under:-

"R.B.E. 23/95

Subject: counting of period spent on training before appointment to service as qualifying for pension.
(No. F(E) III7911PN-1120, dated 14.3.95

In terms of this Ministry's letter of even no. dated 17.4.84 & 13.10.86, Group C&D, Railway employees who are required to undergo departmental training relation to jobs before they are put on regular employment, training period is treated as qualifying service for pension if the training is followed immediately by an appointment.

2. The question of counting the initial training period as qualifying service for pension also in cases where the trainee fails to complete the training period in one attempt as been under consideration of the Ministry of Railways for quite some time. It has now been decided in consultation with DOP%PW to allow the benefit of initial period to qualify for pension in the event of the trainee's failure in the initial



training but passing the repeat course subject to the condition that the period of interruption between the initial training period and repeat course as well as the entire period of repeat course will be treated as dies non in such cases.

3. The decision quoted above has also been a demand of the staff side in the PNM/AIRF meeting held on 27.28.9.94."

5. After referring the aforesaid RBE circular, learned counsel for the applicant submitted that the applicant underwent the training without any interruption and he was allowed to change his category by the competent authority. He was duly relieved from the previous training for joining the new training and a 'No Objection Certificate' was issued and the departmental training was followed by the appointment. His case is fully covered by the aforesaid circular and the entire period of his departmental training from 10.12.1971 to 13.08.1976 ought to have been reckoned for counting as qualifying service for the purpose of pension, which includes the gratuity also. When the period of training for the post of Guard has not been counted, the applicant submitted a representation dated 05.04.2009 to this effect and the same was rejected vide order dated July, 2009 (Annexure A/2). Aggrieved and dissatisfied with Annexure A/2, the applicant preferred this OA.

6. In Para No. 4.6 of the reply to the OA, the respondents have admitted that the instructions for counting of period spent on training has also been considered for qualifying service but the benefit of the same has not been extended in favour of the applicant as training imparted for the post of Mechanic does not relate with the job of Guard. So far as the training which has been undertaken for the post

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of Guard is concerned, the respondents submitted that the same is counted as qualifying service.

7. The respondents by way of MA No. 95/2011 have filed certain documents. As per letter No.03.03.2011, the payment of gratuity, commutation amount and other benefits have been made to the applicant to the tune of Rs.1,26,104/- . It is also stated at Bar that PPO issued by the respondents has been revised vide order dated 28.02.2011 in view of the 6th CPC recommendations.

8. Having heard the rival submission of the respective parties and upon careful perusal of material available on record as well as relevant provisions/circular on the subject, it is an admitted fact that time spent for departmental training is counted for the purpose of pensionary benefits but in the case of the applicant, benefits has been revised on account of training which has been undertaken by the applicant for the post of Mechanic, which is not related with the job of Guard whereas the respondents does not disputed that the applicant in railway service was selected in the year 1971 and joined as Apprentice Mechanic Chargeman and thereafter changed the category in the year 1974 as a Guard. Thus as per the settled preposition of law as per the Circular dated 14.3.95 issued in terms of letter dated 17.4.84 and 13.10.86, Group 'C' and 'D' Railway employees who are required to undergo departmental training relation to jobs before they are put on regular employment, the training period is treated as qualifying service for pension if the training is followed immediately by an appointment. In the instant case, training is followed immediately by the appointment of the applicant as Apprentice and also as a Guard. Thus

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in view of the circular, the applicant is entitled for the relief and the respondents are directed to count the training period as qualifying service for the purpose of pension. Therefore I direct the respondents to reconsider the case of the applicant in pursuant to the circular and as observed by this Tribunal hereinabove and issue revised PPO after treating the training period as qualifying service for pension.

9. With these observations, the OA shall stands disposed of with no order as to costs.

10. In view of the order passed in the OA, no order is required to be passed in MA No. 95/2011 which shall also stands disposed of accordingly.



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

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