

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 09.07.2014

OA No. 468/2011

Mr. C.B.Sharma, Counsel for the applicant.

Mr. Tanveer Ahmed, Counsel for the respondents.

Heard the learned counsel for parties.

Order reserved.


(RAJ VIR SHARMA)

JUDICIAL MEMBER



(ANIL KUMAR)

ADMINISTRATIVE MEMBER

Adm/

Dt. 11-7-2014

Order pronounced today in the open
Court by the aforesaid Bench.


COURT OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 468/2011,

ORIGINAL APPLICATION NO. 364/2013
With
MISC. APPLICATION NO. 278/2013,

ORIGINAL APPLICATION NO. 365/2013
With
MISC. APPLICATION NO. 279/2013,

ORIGINAL APPLICATION NO. 444/2013
With
MISC. APPLICATION NOS. 243/2013, 244/2013 &
291/00161/2014,

ORIGINAL APPLICATION NO. 445/2013
With
MISC. APPLICATION NOS. 264/2013, 311/2013,

ORIGINAL APPLICATION NO. 488/2013
And
ORIGINAL APPLICATION NO. 497/2013

Order reserved on: 09.07.2014

Date of Order: 11.7.2014

CORAM

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. RAJ VIR SHARMA, JUDICIAL MEMBER**

1. OA No.468/2011

Harbans Lal Verma, son of late Shri Har Govind, aged about 62 years, resident of plot No.4, Ranthambore Road, Near IOC Colony, Sawai Madhopur and retired on 31.3.2009 from the post of Guard Mail/Express, West Central Railway, Kota Division, Kota.

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

VERSUS

1. Union of India through its General Manager, West Central Zone, West Central Railway, Jabalpur (MP).
2. Railway Board through its Chairman, Railway Bhawan, New Delhi.

3. Divisional Railway Manager, West Central Railway, Kota Division, Kota.
4. Senior Divisional Operation Manager, West Central Railway, Kota Division, Kota.

.....Respondents

(By Advocate Mr. Tanveer Ahmed)

2. OA No. 364/2013 with MA No.278/2013

1. Mahendra Kumar Gupta son of late Shri Ram Narayan Gupta aged about 58 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, WCR.
2. Rakesh Kumar Dixit son of late Shri O.P.Dixit aged about 56 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, WCR.
3. Manohar Lal Meena son of Shri Ghamandi Lal Meerna, aged about 58 years, at present employed on the post of Mail/Express Guard in the O/O Station Superintendent, Gangapur City, WCR.
4. Brijraj Singh son of Shri Lt. Babulal Singh, aged about 59 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Gangapur City, WCR.
5. Virendra Kumar Vyas Son of late Shri Umashankar Vyas, aged about 57 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, WCR.
6. Om Pal Singh son of Shri Mehtab Singh, aged about 58 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, WCR.

Address for correspondence:

C/o Shri Mahendra Kumar Gupta,
27, Model Town, Kherli Phatak, Kota, Raj.

.....Applicants

(By Advocate Mr. C.B.Sharma)

VERSUS

- 1.Union of India through General Manager, West Central Railway, Jabalpur (MP).
- 2.Divisional Railway Manager, WCR, Kota Division, Kota.
- 3.Senior Divisional Operation Manager, WCR, Kota Division, Kota.
- 4.The Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi-110001.

.....Respondents

(By Advocate Mr.P.K.Sharma)

3. OA No.365/2013 with MA No. 279/2013

1. Mahesh Kumar son of late Shri Jai Kishan Ji, aged about 57 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
2. Shiv Shankar Sharma son of Shri Yudhishthar Singh Sharma aged about 58 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
3. Vinod Kumar Sharma, son of late Shri Beni Prasad Sharma, aged about 55 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
4. Hari Ram Meena son of Shri Durga Prasad Meena, aged about 58 years, at present employed on the post of Mail/Express Guard in the Office of Station Manager, Kota, West Central Railway.
5. Praveen Kumar Suri son of late Shri V.R.Suri, aged about 56 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
6. Rajendra Singh so of Shri Nand Kishore, aged about 58 years, at present employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.

Address for correspondence:

C/o Mahesh Kumar S/o Late Shri Jai Kishan ji,
Abhilash New Post Office Road, Kota Jn. (Raj.) ,Applicants
(By Advocate Mr. C.B.Sharma)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (MP).
2. Divisional Railway Manager, WCR, Kota Division, Kota.
3. Senior Divisional Operation Manager, WCR, Kota Division, Kota.
4. The Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi-110001.

.....Respondents

(By Advocate Mr.P.K.Sharma)

4. OA No. 444/2013 with MA Nos.243/2013 , 244/2013 and 291/00161/2014

1. Shafi Ahmed son of Shri Babu Khan, Resident of 382/D, Railway Colony, Babu Line, Topdara , Ajmer working on the post

of Mail Guard under the office of DRM, Ajmer. Age about 53 years.

2. Subhsh Chand Pareek son of Shri Jagdish Pareek, resident of House No.101, Mali Mohta, Shiv Colony, Kundan Nagar, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 52 years.

3. Sushil Kumar son of Laxmi Charan Sharma, resident of House No.18, Radha Nikunj, Muhana Mandi, Mansarovar, Jaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 52 years.

4. Rajendra Pd. Gaur, son of Shri Hari Har Parasad Gaur, resident of House No.155, R.K.Puram, Foisagar Road, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 45 years.

5. Deepak Sharma son of Shri Y.C.Sharma, resident of 74A, Bhagwati Nagar, Kartarpura, Jaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 44 years.

6. Hardeen Ram Chaudhary son of Shri Bhanwar Lal , resident of House No.62, Ganpati Nagar,Pushkar Road, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 43 years.

7. Mohd. Ilyas Hasmi son of late Shri S.M.H.Ambra, Resident of House No.69, Akt. Nagar, Gulab Bari, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 44 years.

8. Shambhu Singh son of Shri Narsingh Daan, resident of Bileda, Post Office Lamba Hari Singh, District Tonk working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 44 years.

9. Bhanwar Lal Bagea son of Shri Surja Ram, resident of House No.13, Topdara Colony, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 45 years.

10. Gopal Singh Bagari son of Shri Jabar Mal, resident of 841, B.K.Kaul Nagar, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 54 years.

11. Sanjay Kaushal son of Shri R.S.Kaushal, resident of 223, Keshav Nagar,Vaishali Nagar, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 43 years.

12. Noratmal Panwar son of Shri Mool Chand Panwar, resident of Diggi Bazar, 21/913, Behind Diggi Talab, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 44 years.

13. H.K.Meena, son of Shri Sodan Singh Meena, resident of 370 D, Topdara, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 43 years.
14. S.S.Meena son of Shri Ram Singh, Resident of Railway Quarter No.370A, Railway Colony, Topdara, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 46 years.
15. Suresh Kumar Dahiya son of Shri Sharda Nand Dahiya, resident of A-93, Chandravardai Nagar, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 43 years.
16. Yogesh Gautam son of Shri V.P.Gautam, resident of 76, Bank Colony, No.2, Naka Madar, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 45 years.
17. P.C.Shukla son of Shri Naveen Chand Shukla, resident of 30, Shastri Colony, Pushkar Road, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 45 years.
18. Arvind Kr. Shukla son of Shri Suresh Chand Shukla, resident of 24, Shastri Colony, Pushkar Road, Ajmer working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 46 years.
19. Ashok Kr. Gautam son of Shri Sri Narain Gautam, resident of Natraj Colony, near Bajrang Dham Kanta, Foisagar Road, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 50 years.
20. Hansram Meena son of Shri Raghuvan Lal, resident of 52 A , New Ambawadi, Topdara, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 45 years.
21. Prem Singh Rathore son of Shri Bhanwar Singh Rathore, resident of 370 I,Topdara, Railway Colony, Babu Line, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 56 years.
22. J.P.Sharma son of Shri Chet Ram Sharma, resident of 434, A-Block, Chandravardai Nagar, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer.
23. Nathu Ram Jat, son of Shri Deva Ram, resident of 148, B.K.Kaul Nagar, Foisagar Road, Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 55 years.
24. Sudhir Kr. Arora son Shri L.N.Arora, Resident of 3-Kha-15, R.H.B, Dhola Bhata,Ajmer working on the post of Mail Guard under the office of DRM, Ajmer. Age about 48 years.

25. Sadat Kabir son of late Shri Abdul Vahid, Resident of 39-B, Kundan Nagar, Ajmer. Retired as Mail Guard from the office of DRM, Ajmer. Age about 62 years.

26. Amar Singh son of late Shri Sukh Deo , resident of 209 A, Kundan Nagar, Near Bhalla dairy, Ajmer. Retired as Mail Guard from the office of the DRM, Ajmer, Age about 62 years.

27. Bhagwan Singh son of Shri Pooran Singh, Resident of A-955, Chandravardai Nagar; Ajmer. Retired as Mail Guard from the Office of DRM, Ajmer. Age about 61 years.

28. R.N.Mathur Son of Shri Inder Narain Mathur, resident of House No.1626, Opp. IWPD Office, Shyam Nagar,Chorasia Vas Road, Ajmer, Retired as Mail Guard from the office of DRM, Ajmer. Age about 61 years.

29. Ravi Dutt Parihar son of late Shri Shiv Dayal Parihar, resident of House No.532/N/2, Parihar Bhawan, Opp. Sir Ram Das School, Ram Nagar, Ajmer. Retired as Mail Guard from the office of DRM, Ajmer. Age about 62 years.

30. Hari Gopal Choudhary son of Ramchandra Choudhary, r/o 81, Swamy Nagar, Tekri-Modri Link Road, Inside Prabhat Enterprises, III Road, Udaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 48 years.

31. N.K.Sharma son of Shri K.M.Sharma, r/o 558, Sector No.11, Hiranmagri, Udaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 52 years.

32. Ramesh Chand Gupta son of Shri Badri Prasad Gupta, r/o House No.115, Shiv Colony, Kundan Nagar, Ajmer working on the post of Goods Guard under the office of DRM, Ajmer. Age about 40 years.

33. Sanjay Jain son of Shri Trilok Chand Jain, r/o C-40, Balaji Nagar, Goverdhan Villas, Sec-14, Udaipur working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 39 years.

34. Vishnu Shankar Sharma son of late Shri Nand Kisjhor Ji Sharma, R/o 05-A, Jyoti Nagar, Behind Saint Grogrium School, New Sobhagpura,Udaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 51 years.

35. Satyanarayan Lohar son of Shri Gahari Lal Lohar resident of 102, Tilak Nagar,Hiran Magri, Sector No.08,Udaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 46 years.

36. Deepak Kumar Sharma son of Shri Giriraj Chandra Sharma, resident of 20, Krishna Vihar, B-Block, New Vidhya Nagar,

Sector-4, Hiran Magri, Udaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 45 years.

37. Sanjay Kumar Bhardwaj son of late Shri Surendra Kumar Bhardwaj, resident of Railway Quarter No.333-A, Railway Colony, Abu Road working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 41 years.

38. Rajendra Singh Solanki son of Shri Jagdish Singh Solanki , Railway Phatak No.75-C, Khempura,Udaipur working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 44 years.

39. Raffiq Mohd.Sheikh son of Wali Mohd. Sheikh, 24, Mastan Manzil, Murshid Nagar, Sector 12, Saveena, Udaipur working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 43 years.

40. Hira Lal Ahari son of Sri Homa ji Ahari r/o 18-A, Railway Colony, Udaipur City working on the post of Mail Guard under the office of DRM, Ajmer. Age about 59 years.

41. Ashok Kumar Gurjar son of Shri Ram Chandra Gurjar r/o Plot No.4, Near Kheda,M.P.Colony , Sector 13, Hiran Magri, Udaipur working on the post of Mail Guard under the office of DRM, Ajmer. Age about 54 years.

42. Mithu Singh Chundawat son of Hari Singh Chundawat, resident of 158-B, Meera Nagar, Bhurana, Udaipur working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 44 years.

43. Raghuveer Singh son of Har Dan Singh, R/o S.S.Shekhwat, resident of Railway Quarter No.12, Railway Colony, Udaipur City working on the post of Passenger Guard under the office of DRM, Ajmer. Age about 41 years.

44. Jaswant Singh Jhala, R/o T-55A, Railway Colony, Rana Pratap Nagar, Udaipur working on the post of Passenger Guard under the Office of DRM, Ajmer. Age about 46 years.

45. Rajendra Kumar Sharma son of Radhey Shyam Sharma resident of 25, R.K.Puram, Near Girija Vyas Petrol Pump, Jeetardi, Udaipur working on the post of Passenger Guard under the Office of DRM, Ajmer. Age about 42 years.

46. Narendra Kumar son of Ram Chandra, r/o Smriti Shesh, Tilak Nagar, Opp. Grameen Haat Bazar, Sec.08 , Savina, Udaipur working on the post of Mail Guard under the Office of DRM, Ajmer. Age about 56 years.

47. Mahesh Chandra Sharma son of late Shri Panna Lal Sharma, 71A, Railway Colony, Rana Pratap Nagar, Distt. Udaipur working

on the post of Passenger Guard under the Office of DRM, Ajmer. Age about 54 years.

48. Ahmed Ali son of Guljar Mohammad, r/o Railway Quarter No. T-43 B ,Rana Pratap Nagar, Railway Colony, Udaipur working on the post of Passenger Guard under the Office of DRM, Ajmer. Age about 45 years.

49. Jai Singh Branda son of Shri Mangla Ji r/o Village & Post Balicha Tehsil Khairwada, Distt. Udaipur working on the post of Mail Guard under the Office of DRM, Ajmer. Age about 52 years.

50. Deendayal Khandelwal son of Shri Mool Chand R/o Santosh Nagar, Gariawas Road, Gali No.3, Udaipur working on the post of Mail Guard under the Office of DRM, Ajmer. Age about 55 years.

51. Rakesh Kumar Gupta son of Prem Narain Gupta, R/o H.No.15/B, Ambedkar Colony, Abu Road working on the post of Passenger Guard under the Office of DRM, Ajmer. Age about 43 years.

.....Applicants

(By Advocate Mr. Anand Sharma)

VERSUS

- 1.Union of India through the Secretary, Ministry of Railway, Chairman, Railway Board, Rail Bhawan, New Delhi.
2. Divisional Railway Manager, Ajmer (in short DRM, Ajmer).
3. Divisional Railway Manager (Personnel), Ajmer.

.....Respondents

(By Advocate Mr. M.L.Goyal)

5. OA No.445/2013 with MA Nos.264/2013 and 311/2013

1. Ranbir Singh s/o Shri Tanti Ram, aged about 48 years, R/o Indra Nagar, First Gali, Opp. Hand Pump, Near Gas Godown, Gulab Bari, Kalyanipura Road, Ajmer at present holding the post of Loco Pilot (Mail/Express) in DRM, Ajmer.

2. Ramsharan S/o Shri Badri Prasad, aged about 48 years, R/o Ram Ganj, Ajmer, at present holding the post of Loco Pilot(Mail/Express) in DRM, Ajmer.

3. Naresh Kumar s/o Shri Babulal, aged about 46 years, R/o Near Madan Cinema, Jawahar Nagar, Ajmer, at present holding the post of Loco Pilot (Mail/Express) in DRM, Ajmer.

.....Applicants

(By Advocate Mr. Anand Sharma)

VERSUS

- 1.Union of India through the Secretary, Ministry of Railway, and Chairman, Railway Board, Rail Bhawan, New Delhi.

2. General Manager(Personnel), North Western Railway, Jaipur.
3. Divisional Railway Manager, Ajmer (in short DRM, Ajmer).
4. Divisional Railway Manager (Establishment), Ajmer.

.....Respondents

(By Advocate Mr. M.L.Goyal)

6. OA No.488/2013

1. Durgesh Saxena son of Shri Ram Bahadur Saxena, aged about 61 years, last employed on the post of Mail/Express Guard in the office of Station Manager , Kota, West Central Railway.
2. R.B.Meena son of Sh. Ram Phool Meena, aged about 60 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Gangapur City, Distt. Sawai Madhopur, West Central Railway.
3. Laxmi Narain Tanwar son of Shri Narpat Singh, aged about 60 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
4. Hari Om Narain son of Shri Dharam Narain, aged about 60 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
5. Om Prakash Sharma son of late Shri Ram Narain Sharma, aged about 62 years, last employed on the post of Mail/Express Guard in the office of Station Manager Kota,West Central Railway.
6. Sudhir Bhargava son of Sh.Radha Mohan Bhargava, aged about 61 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
7. Satish Chandra Sharma son of late Sh. Radhey Shyam Sharma, aged about 61 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
8. Brijendra Singh son of Hari Prasad Singh, aged about 61 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.
9. Naresh Pal Singh son of late Shri Dhyan Pal Singh, aged about 60 years, last employed on the post of Mail/Express Guard in the office of Station Manager, Kota, West Central Railway.

Address for correspondence:

C/o Durgesh Saxena s/o Ram Bahadur Saxena, House No.45-C,
Shri Nath Puram, Kota-324010.

.....Applicants

(By Advocate Mr. C.B.Sharma)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (MP).
2. Divisional Railway Manager, WCR, Kota Division, Kota.
3. Senior Operation Manager, WCR, Kota Division, Kota.
4. The Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi-110001.

.....Respondents

(By Advocate Mr.P.K.Sharma)

7. OA No. 497/2013

R.G. Gautam son of Late Shri Radhey Shyam, aged about 58 years, resident of House No.131, Janakpuri, Mala Road, Kota. Last employed on the post of Mail/Express Guard in the office of Station Manager,Kota, West Central Railway.

.....Applicant

(By Advocate Mr. C.B.Sharma)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (MP).
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.
3. Senior Operation Manager, West Central Railway, Kota Division, Kota.
4. The Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi-110001.

.....Respondents

(By Advocate Mr. P.K. Sharma)

ORDER

(PER MR. ANIL KUMAR, ADMINISTRATIVE MEMBER)

Since the facts and the law point are similar in all the aforementioned seven OAs, therefore, with the consent of the parties, they are being decided by this common order. For the sake of convenience, the facts of O.A. No. 468/2011 (Harbans Lal Verma vs. Union of India & Ors.) are being taken.

Anil Kumar

OA No. 364/2013

In this O.A. there are six applicants. They are all working as Mail/Express Guard with the respondent-department. According to the learned counsel for the applicant w.e.f. 01.01.2006, the pay scale of all the posts of the Guards excepts Goods Guard were revised to Rs. 9300-34800 plus Grade Pay Rs. 4200/- with an allowance of Rs. 500/- Mail Guard (not constituting part of pay except for D.A.). There was a merger of their pay scale and hence the scheme of the previous percentage based up-gradation was given good-bye. He submitted that after actual promotion from Senior Goods Guards to Passenger Guards and Senior Passenger Guards, it was a lateral induction as in the same grade and not vertical movement. The MACP scheme is applicable to the Guard category also. Learned counsel for the applicant submitted that the withdrawal of the benefits of the M.A.C.P. granted to the applicants is illegal and, therefore, the O.A. be allowed. The facts of this case are similar to the facts of the O.A. No. 468/2011.

OA No. 365/2013

In this O.A., there are six applicants and they are also working as Mail / Express Guard with the respondent-department and their case is similar to the case of the applicant in O.A. No. 468/2011.

OA No. 444/2013

There are 51 applicants in this O.A. They are working either as Mail Guard / Passenger Guard with the respondent-department

Anil Kumar

and their case for grant of MACP is also similar to the case of the applicant in O.A. No. 468/2011.

OA No. 445/2013

In the present O.A., there are three applicants and they are working on the post of Loco Pilot (Mail/Express) with the respondent-department. It is admitted between both the parties that the case of the Loco Pilot (Mail/Express) is similar to the case of Mail / Express Guards. Therefore, in this O.A., same principle would be applicable as in the case of the applicant in O.A. No. 468/2011.

OA No. 488/2013

There are nine applicants in this O.A. The applicants were last employed on the post of Mail/Express Guards with the respondent-department and their case is also similar to the applicant in O.A. No. 468/2011. All the applicant has since been retired.

OA No. 497/2013

There is only one applicant, who was last employed on the post of Mail/Express Guard with the respondent-department and his case is also similar to the applicant in O.A. No. 468/2011. He has also since been retired.

2. The applicant in OA No. 468/2011 has prayed for the following reliefs:

"(i) That respondents may be directed to hold good order dated 07/01/2011 at Annexure-A/9 and further fixation at Annexure-A/11 by quashing letters dated 16/09/2011, 06/09/2011 (qua applicant) and letters dated 10/02/2011

Anil Kumar

and 10/06/2011 (Annexure-A/3 & A/10) with all consequential benefits.

(ii) That respondents be further directed not to reduce pay & allowances of the applicant as allowed w.e.f. 01/09/2008 and further pension and pensionary benefits and not to recover any amount on account of revise fixation by quashing any orders passed by the Railway Board as well as respondents which were not made available to be applicant.

(iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

(iv) That the costs of this application may be awarded."

3. The brief facts of the case are that the applicant joined Railways on the post of Guard on 13.08.1976. He was allowed revised pay scale of Rs. 1200-2040 w.e.f. 01.01.1986 after recommendation of the fourth pay commission. Thereafter, the applicant was allowed ad hoc promotion to the post of Passenger Guard in the pay scale of Rs. 1350-2200 vide order dated 13.03.1992 (Annexure A/5).

4. In the year 1993 pay scale of Passenger Guard was upgraded to Rs. 1400-2600 and the applicant was allowed the pay scale of Rs. 1400-2600 w.e.f. 01.03.1993 vide order dated 16.04.1993 (Annexure A/6). Thereafter, vide order dated 22.06.1993 (Annexure A/7), the applicant was promoted to the post of Guard Mail / Express in the same pay scale i.e. Rs. 1400-2600.

5. The Govt. of India promulgated MACP Scheme for allowing up-gradations after completion of 10, 20 and 30 years of service. The Railway Board issued order to this effect vide order dated

Anil Kumar

10.06.2009 (Annexure A/8). Taking into consideration of these orders, the applicant was allowed 2nd and 3rd financial up-gradation in the scale of Rs. 9300-34800 plus grade pay Rs. 4200 and to the grade pay of 4600 and 4800 w.e.f. 01.09.2008 vide order dated 07.01.2011 (Annexure A/9).

6. Subsequently, the Railway Board issued clarification vide letter dated 10.02.2011 (Annexure A/3) and 30.06.2011 (Annexure A/10) and clarified regarding counting of promotion allowed to the officials towards MACP Scheme and directed that those officials earned three promotions / financial up-gradations till they became Mail / Express Guard are not entitled to any further financial up-gradation under MACP Scheme.

7. The respondents taking into consideration these clarifications cancelled the benefits of 2nd and 3rd financial up-gradation given to the applicant and also revised the pay from Rs. 27600 to Rs. 25430 w.e.f. 01.09.2008 and also the grade pay was reduced from Rs. 4800 to Rs. 4200.

8. Learned counsel for the applicant submitted that the applicant was appointed as Guard and thereafter allowed scale of Rs. 1350-2200 to the post of Passenger Guard in the year 1992. Thus, it could be treated as one promotion of the applicant. He was further allowed upgraded scale of Passenger Guard Rs. 1400-2600 in the year 1993 and thereafter he was promoted to the post of Mail / Express Guard in the same pay scale of Rs.

Anil Kumar

1400-2600. Thus, in view of this position, the applicant was allowed only two higher scales in the entire service and, therefore, he is entitled for the 3rd financial up-gradation w.e.f. 01.09.2008 under MACP Scheme but the respondents without any base cancelled the benefit of up-gradation allowed to the applicant. Therefore, he argued that the O.A. be allowed and the respondents be directed to allow the benefit of the 3rd financial up-gradation to the applicant.

9. Learned counsel for the applicant further submitted that the similar controversy has already been decided by the Hon'ble Central Administrative Tribunal, Ernakulam Bench, Ernakulam vide order dated 22nd February, 2012 in **OA No. 484/2011 (All India Loco Running Staff Association & Ors. Vs. UOI & Ors.)** and other connected matters (Annexure A/14).

10. He further submitted that the Hon'ble Central Administrative Tribunal, Allahabad Bench, Allahabad has also decided the similar controversy in **O.A. No. 1241/2011 (Sachchidananda Ram and Ors. Vs. Union of India & Ors.)** relying upon the order of the Ernakulam Bench of the Tribunal dated 22nd February, 2012 in OA No. 484/2011 & other connected matters (supra).

11. The order of the Hon'ble Central Administrative Tribunal, Allahabad Bench, Allahabad passed in *O.A. No. 1241/2011 (Sachchidananda Ram and Ors. Vs. Union of India & Ors.)*

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(supra) has been challenged by the respondents (UOI) before the Hon'ble High Court of Allahabad by way of filing **Writ Petition No. 18244/2013 (Union of India through G.M., E.C.R. and Ors. Vs. C.A.T. and Ors.** The Hon'ble High Court of Allahabad vide order dated 19.07.2013 (Annexure A/15) has upheld the order of the Central Administrative Tribunal, Allahabad Bench, Allahabad passed in *O.A. No. 1241/2011 (Sachchidananda Ram and Ors. Vs. Union of India & Ors.)* (supra). Learned counsel for the applicant submitted that since this controversy has already been settled by the judicial pronouncements, therefore, the present O.A. be allowed in the light of the said orders and judgments.

12. On the other hand, the respondents have filed their reply. In the reply, the respondents have stated that under MACP Scheme, the applicant was granted the benefit of grade pay of Rs. 4600/- and 4800/- w.e.f. 01.09.2008 vide order dated 07.01.2011 (Annexure A/9). This order was provisionally issued subject to the clarification received from the Railway Board. Therefore, the orders being provisional could be changed. The clarifications dated 10.02.2011 (Annexure A/3) regarding grant of MACP benefit to Guards category and letter dated 30.06.2011 (Annexure A/10) regarding grant of financial upgradation to Loco Pilot and Guard under MACP Scheme were issued in continuation to earlier orders regarding MACP Scheme. In view of the guidelines issued by the Railway Board, the earlier grade pay

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sanctioned to the applicant was cancelled because the same were not admissible and the pay fixation has been revised.

13. The respondents in their reply have stated that a comparative study of pay fixation made in letter dated 07.01.2011 (Annexure A/9) and 02.09.2011 (Annexure A/2) will make it clear that applicant has been given benefit of second MACP Scheme by allowing grade pay Rs. 4600/- w.e.f. 01.09.2008 in the pay scale of Rs. 9300-34800 grade pay Rs. 4200/- and benefit of third MACP Scheme has also been given by allowing grade pay Rs. 4800/- w.e.f. 01.09.2008 in the pay scale of Rs. 9300-34800 and no financial loss has been caused to the applicant. Therefore, the respondents submitted that there is no merit in the O.A. and it should be dismissed with costs.

14. Heard learned counsel for the parties, perused the documents available on record and the case law referred to by the learned counsel for the applicants.

15. It is not disputed between the parties that the similar controversy has been decided by the Central Administrative Tribunal, Ernakulam Bench, Ernakulam vide order dated 22nd February, 2012 in **OA No. 484/2011 (All India Loco Running Staff Association & Ors. Vs. UOI & Ors.)** and other connected matters (supra). Similarly, Central Administrative Tribunal, Allahabad Bench, Allahabad has also decided the similar controversy in **O.A. No. 1241/2011 (Sachchidananda**

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Ram and Ors. Vs. Union of India & Ors.) relying upon the order of the Ernakulam Bench of the Tribunal dated 22nd February, 2012 in OA No. 484/2011 & other connected matters (supra). It is also not disputed that the order of the Hon'ble Central Administrative Tribunal, Allahabad Bench, Allahabad passed in O.A. No. 1241/2011 (Sachchidananda Ram and Ors. Vs. Union of India & Ors.) (supra) has been challenged by the respondents (UOI) before the Hon'ble High Court of Allahabad by way of filing **Writ Petition No. 18244/2013 (Union of India through G.M., E.C.R. and Ors. Vs. C.A.T. and Ors.)** and the Hon'ble High Court of Allahabad vide order dated 19.07.2013 (Annexure A/15) has upheld the order of the Central Administrative Tribunal, Allahabad Bench, Allahabad passed in O.A. No. 1241/2011 (Sachchidananda Ram and Ors. Vs. Union of India & Ors.) (supra).

16. However, learned counsel for the respondents submitted that the order of the Central Administrative Tribunal, Ernakulam Bench, dated 22nd February, 2012 in OA No. 484/2011 (All India Loco Running Staff Association & Ors. Vs. UOI & Ors.) and other connected matters (supra) has been challenged before the Hon'ble High Court of Kerala and the order dated 22nd February, 2012 (supra) has been stayed by the Hon'ble High Court of Kerala.

17. Learned counsel for the respondents further submitted that the respondents have filed an SLP before the Hon'ble Supreme

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Court of India against the order of the Hon'ble High Court of Allahabad dated 19.07.2013 passed in WP No. 18244/2013 (Union of India through G.M., E.C.R. and Ors. Vs. C.A.T. and Ors.) (supra) and the SLP is pending before the Hon'ble Supreme Court of India. However, the learned counsel for the respondents could not give the details of the SLP filed before the Hon'ble Supreme Court e.g. the date on which the SLP was filed and the number of SLP, etc. But the learned counsel for the respondents produced a letter No. PC-V/2014/CC/ECR dated 07.05.2014 issued by the Railway Board, New Delhi regarding proposal for filing SLP in Hon'ble Supreme Court challenging the order dated 19.07.2013 passed by the Hon'ble High Court of Allahabad in WP No. 18244/2013. As such, we believe that an SLP has been filed by the respondents against the order dated 19.07.2013 passed by the Hon'ble High Court of Allahabad in WP No. 18244/2013.

18. Since the similar controversy has already been decided by the Hon'ble High Court of Allahabad, we decide these Original Applications in terms of the judgment of the Hon'ble High Court of Allahabad dated 19.07.2013 passed in WP No. 18244/2013 - Union of India through G.M., E.C.R. and Ors. Vs. C.A.T. and Ors. (supra). The Hon'ble High Court of Allahabad in the judgment dated 19.07.2013 (supra) has held as under: -

"Therefore, the sole question to be decided in this writ petition is as to whether the movement of a Senior Goods Guard to the post of Passenger Goods is a promotion or not. If it is not a promotion, the private respondents will be entitled to the benefits of MACPS.

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The above question appears to have been set at rest by judicial pronouncement. A copy of the judgment and order passed by the Central Administrative Tribunal, Allahabad Bench in Original Application No. 1268 of 2004 disposed of on 1st February, 2006 (Mithilesh Kumar and Ors. Vs. Union of India and Ors.) was produced before the Court for perusal. In the said judgment, the Tribunal specifically held that movement of Senior Goods Guard whose pay-scale is 5000-8000 when posted as Passenger Guards will be only lateral induction and not exactly a promotion. While holding thus, two judgments of Calcutta Bench of the Tribunal had been relied upon by Allahabad Bench of the Central Administrative Tribunal. There is no dispute that in a similar matter filed by A. Haldhar and 37 others, the Tribunal passed a similar order and the same was challenged before this Court by the Railways in Civil Misc. Writ Petition No. 51293 of 2006. The writ petition was dismissed on 15.9.2006 and the Railways preferred an appeal before the Supreme Court vide Special Leave to Appeal (Civil) No. 26787 of 2008. The said Special Leave Appeal was also rejected on 7.12.2011. Therefore, the law has been settled to the effect that movement of a Senior Goods Guard to the post of Passenger Guard is not a promotion and is a lateral induction.

Undisputedly, the Senior Goods Guards and Passenger Guards were in the same scale of pay i.e. 5000-8000. Vide Board's Letter dated 11.9.2008, two categories of Passenger Guard and Senior Passenger Guard (5500-9000) have been merged and allotted Grade Pay of Rs. 2400/- in Pay Band-II (RBE-108/2008). Whereas, earlier the post of Senior Passenger Guard was a promotional post for Passenger Guards. So far as the private respondents are concerned, undisputedly, they were initially recruited as Guard and received one financial upgradation i.e. from 2800 to 4200 (earlier grade pay assigned for both Senior Goods Guard / Passenger Guard) when they moved from the entry level of Goods Guard to the next higher post of either Senior Goods Guard or Passenger Guard. There was no further promotion so far as the private respondents are concerned. Since it has already been held by judicial pronouncement that the post of Senior Goods Guard and Passenger Guard have the same grade of pay and movement of a Senior Goods Guard to the post of Passenger Guard, is only a lateral induction and not a promotion, all the private respondents would be taken to have got only one financial upgradation and as per MACPS, they were entitled to two more financial upgradations. This is exactly what has been held by the Ernakulam Bench of the Central Administrative Tribunal in a batch of original applications, which was relied upon by the Tribunal in the impugned judgment.

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For the reasons stated above, we find no justification to interfere with the impugned order of the Tribunal. The writ petition is accordingly dismissed."

19. Moreover, the Full Bench of the Central Administrative Tribunal, Jodhpur Bench, Jodhpur in OA No. 58/2006 – Naresh Pal Singh & Ors. Vs. Union of India & Ors. - & other connected matters, vide order dated 22nd May, 2014 has held that the post of Passenger Guard is not a promotional post for the post of Senior Goods Guard since both posts are in the same pay scale.

20. Therefore, in view of the discussions made hereinabove, the respondents are directed to decide the case of all the applicants before us in the light of the judgment of the Hon'ble High Court of Allahabad dated 19.07.2013 passed in WP No. 18244/2013 - Union of India through G.M., E.C.R. and Ors. Vs. C.A.T. and Ors. (supra) and pass a fresh reasoned and speaking order expeditiously but in any case not later than a period of three months from the date of receipt of a copy of this order. However, it is made clear that this exercise shall be subject to the final outcome of the SLP filed by the UOI against the order dated 19.07.2013 passed by the Hon'ble High Court of Allahabad in WP No. 18244/2013.

21. The interim relief granted in favour of the applicants in OA Nos. 468/2011, 444/2013 & 445/2013 shall continue against the recovery from the applicants till the respondents decide their

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case about the grant of MACP afresh as per the directions given in para 20 of this order.

22. With these observations and directions, all the aforementioned Original Applications are disposed of with no order as to costs.

23. In view of the order passed in the OAs, all the Misc. Applications are also disposed of.

24. The Registry is directed to place certified copy of this order in the files of other connected matters i.e. OA Nos. 364/2013, 365/2013, 444/2013, 445/2013, 488/2013 and 497/2013.


(RAJVIR SHARMA)
JUDICIAL MEMBER


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

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