

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

**OA. No. 060/00656/2014**

Reserved on: 16.04.2015  
Pronounced on: 22.4.2015

**CORAM:** HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)  
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

1. Kala Singh S/o Sh. Puran Singh
2. Ajit Singh S/o Sh. Mohan Singh
3. Radhe Sham S/o Sh. Dukhi Ram
4. Uttam Singh S/o Sh. Maan Singh
5. Keshav Chander S/o Sh. Kishan Chand
6. Nathu Ram S/o Sh. Hira Lal
7. Ashwani Kumar S/o Sh. Chaman Lal
8. Chander Mohan S/o Sh. Mahesha Nand
9. Bodh Ram S/o Sh. Hans Raj

All retired Loco Pilot Mail/Express, retired from Northern Railway,  
Ferozepur Division, Ferozepur.

10. Kusam Lata wife of Sh. Subhash Chander S/o Sh. Jattu Ram, retired  
Loco Pilot Mail/Express, retired from Northern Railways, Ferozepur  
Division, Ferozepur.

.....Applicants

Versus

1. Union of India through the General Manager, Northern Railway,  
Baroda House, New Delhi.
2. Railway Board, Rail Bhawan, New Delhi, through its Secretary.

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3. Chief Personnel Officer (Admn.), Northern Railway, Headquarters Office, Baroda House, New Delhi.
4. Divisional Railway Manager, Northern Railway, Ferozepur Division, Ferozepur (Punjab).
5. Senior Divisional Personnel Officer, Northern Railways, Ferozepur Division, Ferozepur, Punjab.
6. Senior Divisional Mechanical Engineer, Northern Railway, Ferozepur Division, Ferozepur (Punjab).

.....Respondents

**Present:** Sh. Parveen Kumar, proxy counsel for Sh. R.K. Sharma, counsel for the applicant.

Sh. Yogesh Putney, counsel for the respdts.

### ORDER

#### HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- “(i) Quash order No. 752E/314/Kala Singh – FZR/SRRS/EIIC dated 20.05.2014, passed by respondent No. 3 (Annexure A-1), whereby representations of the applicants No. 1 to 9 and of husband of applicant No. 10 for considering their date of retirement when their wards joined as Assistant Loco Pilot under Safety Related Retirement Scheme has been rejected.
  - “(ii) Issue of directions to the respondents to pay and allowances for the period from 28.07.2010/29.07.2010 to 25.05.2011 and grant all consequential benefits to the applicants.”

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2. It has been stated in the OA that all the applicants were lastly working as Loco Pilot Mail/Express under Senior Divisional Mechanic, Northern Railway, Ferozepur. They sought voluntary retirement under the Safety Related Retirement Scheme (SRRS) issued vide RBE No. 4/2004 dated 02.01.2004 (Annexure A-3). After selection of their wards, they were sent for 39 weeks training as Assistant Loco Pilot at Zonal Training School, Chandausi w.e.f. 26.07.2010 and after successful training, they started working independently as Assistant Loco Pilot w.e.f. 26.05.2011 (Annexure A-4).

3. Averment has been made in the OA that as per Railway Board instructions, an employee has to be retired on the date his ward joined post after successful completion of training. However, the applicants were abruptly retired from service w.e.f. 28.7.2010/29.7.2010 whereas their wards were offered appointment on 26.5.2011 (Annexure A-5). Hence, the applicants were entitled to be paid from the date of their retirement to the date when their wards were offered appointment. Hence this OA.

4. In the written statement filed on behalf of the respondents, it has been stated that the applicants in the present OA have impugned the order dated 20.5.2014 (Annexure A-1) passed by the competent authority

Ans —

in compliance to the order passed by this Tribunal dated 23.10.2013 in OA No. 1333/PB/2011 filed by the applicants no. 1 to 9. The applicants have sought pay and allowances for the period 28.7.2010/29.7.2010 to 25.5.2011 on the premise that their wards were offered appointments on 13.7.2010 and they were retired from service w.e.f. 28.7.2010/29.7.2010 vide order dated 06.08.2010 (Annexure A-5). The applicants are not entitled to the relief in view of the condition No. 2 (xiii) of the Safety Related Retirement Scheme issued vide RBE No. 4/2004 (Annexure A-2) which reads as under:-

**“Suitability of the wards will be assessed in the same manner as is being done in the case of direct recruitment. The assessment will be done through respective Railway Recruitment Boards. The request of the employee for retirement under this scheme would be considered only if the ward is considered suitable for appointment in all respects, including medical fitness.”**

This condition was reiterated by Railway Board vide RBE No. 99/2011 dated 28.06.2011 (Annexure A-3) which reads as under:-

**“6. It is once again reiterated that the retirement of the employees be considered only if the ward is found suitable in all respect. Retirement of the employees and appointment of the wards should take place simultaneously.”**

As such, the OA deserves to be dismissed as the wards of the applicants were found suitable and appointed vide order dated 22.07.2010 on the basis of their medical examination conducted between 16.07.2010 to

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20.07.2010 vide Annexure A-4 and as a consequence thereof the applicants were required to be retired simultaneously i.e. between 16.07.2010 to 20.07.2010. However, they were retired w.e.f. 28.07.2010/29.07.2010 respectively vide Annexure A-5. Hence, the claim of the applicants is not covered under the scheme and the OA deserves to be dismissed with costs. Even otherwise, the applicants are not entitled to pay and allowances for the period 28.7.2010/29.7.2010 to 25.5.2011 in as much as the applicants have not worked during this period with the respondents nor the applicants challenged their date of voluntary retirement as notified vide order dated 06.08.2010 (Annexure A-5) rather the applicants have got salary for the period from 20.07.2010 to 28.07.2010/29.07.2010 despite the fact that the wards of the applicants were found suitable and appointed vide order dated 22.07.2010 (Annexure A-4) on the basis of medical examination conducted between 16.7.2010 to 20.7.2010. The applicants are claiming the pay and allowances for the period from 28.7.2010 to 25.5.2011 without performing any duty and without there being any dispute to the effect that their wards were paid during this relevant period after their appointment vide Annexure A-4. Hence, the claim, which is otherwise not covered under the Scheme, cannot be granted and the OA deserves to be

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dismissed with costs being abuse of process of law. Allowing an inadmissible claim would tantamount to double benefit which again is not permissible.

5. It is further stated that the applicant No. 10 Kusum Lata was neither an employee nor a retired Loco Pilot Mail/Express with the Railways. No representation said to have been made by her is on record of the earlier OA No. 1333/PB/2011 disposed of by this Tribunal vide order dated 23.10.2013 (Annexure A-13). This is also apparent from the list of wards of the concerned employees who were selected and detailed for training having passed the prescribed medical examination, vide letter dated 22.07.2010 (Annexure A-4) read with letter dated 06.08.2010 (Annexure A-5) and the representations Annexures A-8, A-10 and A-11 and A-12 attached with the OA. Hence, applicant No. 10 has no locus standi to file the present OA. As per Annexure A-5, the applicant except applicant at Sr. No. 10 stood retired on 28/29.7.2010 and have been paid their due retiral benefits. They were actually relieved on these dates and have not worked thereafter. This retirement was in lieu of the appointment of the wards under a special scheme, outside the normal/general rules. The applicants, therefore, cannot have any grouse/grievance to the date of retirement nor is any claim for any salary

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beyond the date of retirement, on principle of "No work no pay" as well, tenable.

6. Rejoinder has been filed on behalf of the applicant reiterating the content of the OA.

7. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant reiterated the facts and grounds taken in the OA and the rejoinder and claimed that although the retirement of the applicants was effected from 28.7.2010, the wards of the applicants were appointed as Assistant Loco Pilots only in May, 2011 and hence, they were entitled for salary during this period as they were needlessly retired earlier than they should have been. He cited **Harpal Singh Vs. State of Punjab & Ors., 2013(3) SCT Page 98** and **All Punjab Gramin Bank Employees Union Vs. Punjab Gramin Bank and Ors., 2013(3) SCT Page 101** to press that the Department was required to take action regarding retirement of the applicants only as per the Scheme and hence the applicants' claim for back wages was valid.

8. Learned counsel for the respondents stated that the date of voluntary retirement in respect of the applicants was 28.7.2010 while their wards have been offered appointment through order dated 22.7.2010. During the training period, the wards of the applicants who

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reported for training were paid stipend plus DA. The applicants had not worked on any post after their voluntary retirement and hence, their claim for payment of salary from the date of voluntary retirement to the date when their wards were appointed as Assistant Loco Pilots on regular basis was without merit. Learned counsel also referred to clarification issued vide letter No. 220-E/SRRS/DA/G/Rectt./Pt-I/2008/2009 dated 09.02.2011 (Annexure A-7) wherein it had been stated as follows:-

“The matter was sent to Railway Board and Railway Board clarified vide their letter No. E(P&A) I-2010/RT-I dated 04.02.2011 that the retirement of the employee under the Safety Related Retirement Scheme should be made from the date his ward is offered appointment.”

He stated that since the wards of the applicants had been offered appointment in July, 2010 and the applicants had also been retired in July, 2010, they could not get salary for the in-between period.

9. We have given our careful consideration to the matter. As per Safety Related Retirement Scheme, the retirement of an employee applying under the Scheme has to take place simultaneously with the offer of appointment being made to his ward. In the instant case, the date of appointment of the wards is 22.7.2010 and the date of voluntary retirement of the applicants is 28/29.7.2010. Hence, there is no merit in the claim of the applicants for release of salary for the period between the date of voluntary retirement and the date when after completion of

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training, the wards of the applicants joined as Assistant Loco Pilots, especially when the wards were allowed stipend which was equal to the Basic Pay in the Grade + DA during the training period. The period of training is also counted for future increments.

10. In view of the foregoing discussion, the OA is held to be without merit and is accordingly rejected. No costs.

*As* \_\_\_\_\_  
**(RAJWANT SANDHU)**  
**MEMBER(A)**

*B. A. Agrawal*  
**(DR. BRAHM A. AGRAWAL)**  
**MEMBER(J)**

**Dated: 22.4.2015**

**ND\***

Pre-delivery order in OA No.060/00656/2014 titled Kala Singh & Ors.

Vs. UOI for consideration please.

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**(RAJWANT SANDHU)**

MEMBER(A)

21.04.2015

**Dr. Brahm A. Agrawal**  
Hon'ble Member(J-II)

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21.4.15