

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2353/2013

Reserved on: 03.09.2015
Pronounced on: 11.09.2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)**

Girdhar Gopal s/o Sh. R.P. Suyal,
Working as Senior Console Operator,
Northern Railway,
IRCA Building Reservation Complex,
New Delhi.

...Applicant

(By Advocate: Shri Gaya Prasad)

Versus

1. Union of India through
The General Manager,
Northern Railway, Hqrs. Office,
Baroda House,
New Delhi – 110 055.

2. Chief Commercial Manager/PM,
North Delhi Municipal Corporation
Northern Railway,
IRCA Building Reservation Complex,
New Delhi.

3. Chief Personnel Officer,
Northern Railway, Hqrs. Office,
Baroda House,
New Delhi – 110 055.

4. Dy. Chief Personnel Officer/T&C
Northern Railway, Hqrs. Office,
Baroda House,
New Delhi – 110 055. ...Respondents

(By Advocate: Sh. Kripa Shankar Prasad)

O R D E R**By Hon'ble Mr. P.K. Basu, Member (A):**

In the year 1985, a Project was established under the name of 'Project of Computerization of Passenger Seat/Birth Reservation in Delhi Area' [hereinafter referred to as 'Project'] by the Railways. Vide letter dated 03.01.1985, bio-data of the staff willing to join the Project were called for. On receipt of bio-data, some staff were posted in the Project, vide Office Order dated 20.11.1985. The applicant, who was a Typist in the grade of Rs.260-400/- was also posted in the said Project w.e.f. 15.10.1985 in the grade of Rs.330-560/- by downgrading the post of Console Operator grade of Rs.550-750(RS) and operated in grade of Rs.330-560. It was made clear at that time that the employees posted/absorbed in the organization on *ad hoc* basis were to retain their parent cadre/Delhi Division. The applicant was further promoted in Console Operator grade Rs.425-640/1400-2300 (i.e. the next grade of his substantive grade). The applicant was promoted from Typist grade Rs.260-400 to Senior Typist grade Rs.330-560 vide Division Railway Manager Delhi's letter dated 17.02.1987. On completion of the Project, an open line organization was formed named as 'Computerized Passenger Reservation System' [hereinafter referred to as 'CPRS'] vide order No.172 dated 01.07.1988 wherein it was again clearly mentioned that the staff posted to the CPRS against technical posts would

be treated as *ex cadre* staff governed by the rules of *ex cadre* posts, and that they would continue to maintain their lien and seniority in their parent cadre. Later on, vide Railway Board's letter dated 15.02.1993, it was again reiterated that vacancies in the stream of Console Operator in the CPRS would be filled on *ex cadre* basis. Based on this letter, selection for the post of Console Operator grade Rs.1600-2660 was initiated and viva-voce was held on 15.11.1995 and 16.11.1995. The applicant was not called for the same as he did not meet the prescribed educational qualification and also because of the fact that the substantive position in the grade Rs.1200-2040 did not fall within the categories allowed to compete for the post in question.

2. Aggrieved, the applicant filed OA No. 2093/1995 wherein the Tribunal, vide order dated 09.11.1995, gave an interim direction that the applicant should be allowed to appear for the viva-voce. Accordingly, he was allowed to appear for the viva-voce on 16.11.1995, but his result was kept in sealed cover. Finally, vide Tribunal's order dated 07.10.1999, the respondents were directed to consider the applicant for appointment as Console Operator in the pay scale of Rs.1600-2660 from the due date with all consequential benefits, except payment of arrears of pay for the period upto 06.11.1995, the date of filing the OA. A Writ Petition filed by the respondents against the aforesaid Tribunal's order was dismissed by the High Court of Delhi. Accordingly, the

applicant had been empanelled and placed at the bottom of the panel. Since the name of the applicant has been interpolated in the panel dated 05.01.1995 and all the other candidates placed on the panel senior to him had been promoted on 10.01.1996, the applicant was promoted as Console Operator in the grade of Rs.1600-2660/5500-9000 w.e.f. 10.01.1996 with the benefits of date of promotion of other senior candidates, and the applicant resumed his duty as Console Operator w.e.f. 08.08.2000 (AN) without any objection. It is further clarified that the maximum tenure in CPRS is 4 years or till the incumbent of the post gets promoted in his own cadre, whichever is earlier, and on completion of tenure period, they are liable to be repatriated to their parent cadre.

3. The applicant filed a contempt petition, which was heard and dropped by the Tribunal vide order dated 06.05.2001, which reads as under:-

“The specific date from which applicant is entitled to be promoted as Console Operator (Gr.1600-2660) is not a matter which can be adjudicated in contempt proceedings in the absence of any explicit direction in the Tribunal’s order dated 07.10.1999.

Giving leave to applicant to agitate the same in accordance with law, if so advised, the CP is dropped. Notice discharged.”

4. After several stages of litigation, the applicant filed OA No.595/2002 in which the Tribunal, vide order dated 12.05.2003, *inter alia*, passed the following order:-

"2. Annexure A-1 dated 3.8.2000 is also quashed and set aside and directing the respondents to interpolate the applicant's name after serial no.7, i.e., between serial No.7 (Sunita Sharma) and serial No.8 (A.K. Bhattacharya), deeming that applicant had been absorbed on the post of Console Operator on 17.10.1985.

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5. Applicant is held entitled to get notional increments from the date of his absorption on the post of Console Operator w.e.f. 17.10.1985, till he filed OA-2093/95, i.e., 6.11.1995. Thereafter, he will be entitled for arrears of pay and increments in actual terms."

5. The respondents approached the High Court of Delhi in WP(C) No.5810/2003 against the aforesaid Tribunal's order but this was dismissed vide order dated 03.04.2006. Thereafter, the order of the Tribunal passed in OA No.595/2002 was implemented by the respondents vide orders dated 24.01.2007 and 13.03.2007.

6. In the meantime, the respondents issued a further order dated 10.04.2013 in which they revised the pay fixation of four Enquiry-cum-Reservation Clerks including the applicant in which the applicant's Grade Pay has been shown as Rs.2400/- as on 01.07.2008 and as Rs.2800/- from 01.09.2008 onwards till 01.07.2012, whereas in the said calculation sheet, the present status of Grade Pay has been shown as Rs.4200/-. The applicant's claim is that GP of Rs.2800/- has been wrongly indicated, whereas it should be indicated as Rs.4200/-. In this

regard, he has also filed his Pay Slip for the month of March, 2013 where his PB is shown as Rs.9300-34800 (PB-2) with GP of Rs.4200/-, but in the pay fixation sheet attached with the letter dated 10.04.2013, the fixation apparently is in PB-1 and, therefore, GPs have also been shown to be Rs.2400/- and Rs.2800/- which pertain to PB-1. The second claim of the applicant is that on completion of 10 years of service on 17.10.1995, he was due for first financial upgradation under ACP/MACP Scheme with GP of Rs.4200/-; second financial upgradation w.e.f. 17.10.2005 (on completion of 20 years of service) with GP of Rs.4800/- and third financial upgradation w.e.f. 17.10.2015 (on completion of 30 years of service) with GP of Rs.5400/-.

7. The respondents' reply with regard to the revised pay fixation under MACP Scheme vide order dated 10.04.2013 is that the name of the applicant has been wrongly shown in that order as he is not an E&RC staff, and accordingly the department has rectified the pay fixation by issuing revised order in which his pre-revised scale has been shown as Rs.5500-9000 and the revised scale has been shown to be as Rs.9300-34800 + GP Rs.4200/-. Therefore, this matter is settled by fixing his pay in PB-2 with GP of Rs.4200/-.

8. On the question of applicant's claim for the ACP/MACP benefits, first of all, it is clarified that the Scheme itself envisages that there will be no new cadre in the CPRS and any employee, who comes over to CPRS, will be operating from the *ex cadre* post and will continue to have his lien in his original cadre. In case of the applicant, this would be the Typist cadre. All the higher pay scales that he would be entitled to get by way of promotions in the Typist cadre would be granted to him while he was working in the CPRS.

9. It is submitted by the learned counsel for the respondents that the applicant got one promotion from Typist (Rs.260-400) to the next higher grade of Rs.330-560/- in his own Typist cadre. Thereafter, he got a jump from Rs.330-560/- to the scale of Rs.425-650/-, and he was given the equivalent scale of Rs.1400-2300 (4th CPC) while continuing in CPRS, which later on became Rs.5000-8000 (5th CPC) and finally he was given the upgraded scale of Rs.5500-9000 while continuing in the CPRS. All these entries are available in his service book. It is the case of the respondents that having got three promotions, the applicant is not entitled to get any upgradation under the ACP/MACP Scheme.

10. From the facts of the case, it would be clear that the CPRS does not have a separate cadre of its own and the Scheme itself

envisages that it would be operated through *ex cadre* posts; the incumbents would hold lien in their original cadre; get their due promotions in their original cadre, and they will be granted these promotional scales while they are in CPRS. In fact, the tenure in CPRS was only for four years after which the incumbents were supposed to be reverted back. The applicant has got three promotions in his service career, therefore, he is not entitled to get any further upgradation under the MACP Scheme.

11. Finding no merit in the instant OA, the same stands dismissed. There shall be no order as to costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/Ahuja/