

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.4290/2014

Order Reserved on: 09.12.2016
Pronounced on: 20.12.2016.

**Hon'ble Mr. Rajvir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Pappu V, 50 years,
S/o Sh. Ballu Ram alias Bal Kishan,
Working as Box Boy, under Station Supdt.,
Gangapur City (Raj.)
R/o Valikwali Kulia ke pass, Gopalgarh,
Bharatpur (Raj.).

-Applicant

(By Advocate Shri Yogesh Sharma)

-Versus-

1. Union of India through the
General Manager,
West Central Railway, Jabalpur (MP).
2. The Divisional Railway Manager,
West Central Railway, Kota Division,
Kota (Raj.)

-Respondents

(By Advocate Shri Shailendra Tiwary)

O R D E R

Hon'ble Shri K.N. Shrivastava, Member (A):

Through the medium of this Original Application (OA),
filed under Section 19 of the Administrative Tribunals Act,
1985, the applicant has prayed for the following main reliefs:

“(i) That the Hon'ble Tribunal may graciously be pleased to pass
an order declaring to the effect that the whole action of the

respondents not treating the regularization of the applicant from the date of screening or from the date of regularization of similarly situated persons is illegal, arbitrary and discriminatory and consequently, pass an order directing the respondents to treat the applicant as a regular employee from the date of screening i.e. with effect from June, 2001 with all the consequential benefits.

ii) That the Hon'ble Tribunal may further graciously be pleased to pass an order directing the respondents to grant the minimum pay scale from 1.12.1983 to 31.12.85 @Rs.196/- PM and from 1.1.1986 onwards @ Rs.750/- PM and subsequently corresponding pay scale till his regularization as done in the cases of similarly situated persons vide order dt.23.4.87 with all the consequential benefits including the arrears of difference of pay."

2. The brief facts of this case are as under.

2.1 The applicant was appointed as Commission Vendor in the Railway-department on 26.04.1983. By virtue of Hon'ble Supreme Court judgment in the case of **Ram Swarup and Others v. Union of India**, [C.W.P. No.892-95/1984), all the Commission Vendors in the Railways were ordered to be regularized w.e.f. 01.12.1983. Accordingly, the respondents issued Annexure A-3 order dated 23.04.1987. Since the Annexure A-3 order was not implemented in his case, the applicant approached this Tribunal in OA No.2101/1995, which was disposed of vide order dated 11.11.1996, directing the respondents to dispose of the pending representation of the applicant dated 01.10.1995 by means of a reasoned and speaking order within two months. As the benefit of the Hon'ble Supreme Court judgment in the case of **Ram Swarup** (supra) was not extended to the applicant by the respondents, he approached this Tribunal again in OA-1403/2004, which

was disposed of vide order dated 16.12.2004 in the following manner:

“3. Learned counsel pointed out that in their counter, respondents have stated that in compliance of Hon’ble Supreme Court’s orders persons namely, Rakesh Kumar, Nehru Mal and Pappu along with the present applicant were called upon to appear before the Screening Committee for regularization of their services on group ‘D’ posts. Out of the aforesaid three persons 2 had submitted the sickness certificate and did not appear before the Screening Committee on 26.6.2001. The present applicant alone appeared before the Screening Committee. Shri Nehru Mal Jain, Rakesah Kumar, Getta Devi and Madan Lal had submitted S.B. Civil Writ Petition No.3421/2011 **Nehru Mal Jain and Others** Vs. **Union of India and others** before the High Court Bench of Jaipur wherein on 25.2.2002, the Hon’ble High Court had passed an order maintaining status quo. He pointed out that the petitioner, therein, had sought the same relief as the applicant herein. Respondents have further submitted that as the persons who have been called by the Screening Committee had challenged the action of the respondents in the aforesaid Writ Petition and in which status quo orders have been passed, the result of the applicant has not been declared in view of the case before the High Court at Jaipur.

4. Both sides have agreed that this OA can be disposed of subject to the action to be taken by the respondents in respect of the petitioners in that Writ Petition in terms of the orders to be passed by the Hon’ble High Court. OA is disposed of accordingly. However, applicant shall have liberty to revive this OA, if necessary as per law.”

2.2 The applicant attempted to get himself impleaded in Civil Writ Petition -3421/2001 – **Nehru Mal Jain & Ors. v. Union of India & Ors.** before the Hon’ble High Court of Rajasthan but his request for impleadment was rejected by the said Court.

2.3 Finally, the applicant was absorbed in Group ‘D’ in the Railways vide Annexure A-2 order dated 30.11.2009 and was placed in PB 5200-20200+Grade Pay Rs.1800/-.

2.4 The applicant's claim is that he should have been given regular appointment w.e.f. 26.06.2001 when his screening was done and that his pay should be re-fixed w.e.f. 01.12.1983 in terms of Annexure A-3 order of the respondents dated 23.04.1987. In furtherance to his claim, the applicant has filed the instant OA.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant thereafter filed his rejoinder. The respondents in their reply have fairly submitted that pursuant to the Hon'ble Supreme Court judgment in the case of **Ram Swarup** (supra), a decision was taken by them to absorb the Commission Vendors in the Railway Department. Accordingly, the screening was conducted in the year 2001. An order absorbing the eligible candidates could not be issued due to pendency of various court cases in different High Courts. Finally, vide the Annexure A-2 order dated 25.11.2009, services of the applicant have been regularized in Group 'D' in PB 5200-20200+Grade Pay Rs.1800/-.

4. Arguments of the learned counsel of the parties were heard on 09.12.2016.

5. We have considered the arguments of the learned counsel of the parties and have also perused the pleadings and

documents annexed thereto. Undoubtedly, pursuant to the judgment of the Hon'ble Supreme Court in **Ram Swarup** (supra) the respondents vide Annexure A-3 order dated 23.04.1987 decided to regularize the Commission Vendors.

The relevant extract from the said order is reproduced below:

“....such employees of the statutory canteens are now being paid in the revised scales of pay of Rs.750-940 (RP) from 01.01.86, these petitioners are entitled for the payment of the scale rate of pay plus allowances as admissible as under:-

On and from 01.12.83 to 31.12.85 @ Rs.196/- P.M. and from 01.01.1986 on wards @Rs.750/- P.M.”

6. We do understand the predicament of the respondents in not regularizing the applicant and other similarly situated candidates immediately after the Hon'ble Supreme Court judgment in view of the pendency of the court cases in different High Courts. At last, the applicant was regularized vide Annexure A-2 order dated 25.11.2009. We do not accept the plea of the applicant that he should be regularized w.e.f. 26.06.2001 when his screening was done. The screening only cleared him for regularization but actual regularization could be possible only after the pending court cases were disposed of. As such, we do not find any infirmity in the Annexure A-2 order of the respondents in regularizing the applicants' services w.e.f. 25.11.2009.

7. As regards the second prayer of the applicant that he should be granted pay fixation w.e.f. 01.12.1983, we find that this plea is worthy of consideration. The intent of the respondents expressed in terms of Annexure A-3 order dated 23.04.1987 is quite clear, the relevant portion of which is extracted at para-5 above. We, therefore, hold that the applicant's pay should be re-fixed w.e.f. 01.12.1983.

8. Accordingly, we dispose of this OA with a direction to the respondents to re-fix the pay of the applicant w.e.f. 01.12.1983 and grant him all consequential benefits. It is, however, clarified that the applicant shall be entitled to interest on the arrears of such consequential benefits @9% from the date of filing of this OA, i.e., 21.07.2014.

9. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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