

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A.No.4310/2014

Order Reserved on :18.09.2018

Order Pronounced on:27.09.2018

Hon'ble Ms. Praveen Mahajan, Member (A)

Prakash Chandra Chauhan
Aged 63 years S/o Sh. Rati Ram, Retd.
Technician-I, from SSE/C&W
(Coaching) New Delhi Railway Station,
Delhi Division, Northern Railway,
Resident of : H.No.18, Ramesh Nagar,
Tehsil/Town,
Panipat (Haryana). Applicant

(By Advocate: Shri Dinesh S. Badiar)

Versus

1. Union of India through
The Chairman, Railway Board,
Ex-Officio Principal Secretary,
Govt. of India, Ministry of Railways,
Rail Bhawan,
New Delhi-01;
2. The General Manager,
Northern Railway, Baroda House,
New Delhi-01;
3. The Divisional Railway Manager,
Northern Railway, Estate Entry Road,
New Delhi-55. Respondents

(By Advocate: Shri Amit Kumar)

ORDER(ORAL)

Through medium of this OA, the applicant had sought the following relief:

“8.1 allow the OA and quash the impugned order (RBE No. dated 06.01.2011 (RBE 03/2011) (Ann.A-1) and declare that the petitioner is entitled for 1st class pass w.e.f. 01.07.2011 on reaching the stage of Rs.13660/- on and from 01.07.2011, i.e. above the stage of Rs.12800/- in the pay band I Rs.5200-20200 GP Rs.2800/- corresponding stage of Rs.5375/- in pay scale of Rs.4500-7000; and

8.2 consequently direct the respondents to issue 1st class pass to the petitioner and his own family under the provision of Railway Servant (Pass) Rules, 1986 (Second Edition, 1993); and

8.3 grant any other or further relief as deemed just and proper by this Hon. Tribunal as per facts and circumstances of the case beside granting cost and expensed of the present litigation.”

2. Briefly stated facts of the case are that the applicant was working under the respondents as helper/khalasi w.e.f. 26.04.1977. He subsequently got promotion to the post of Technician Grade-III in the year 1997, Technician Grade-II in the year 2000 and Technician Grade-I in November, 2004 in the pay scale of Rs.4500-7000/- w.e.f. 01.01.2006. His pay scale was revised in PB-I Rs.5200-20200 GP Rs.2800/- and his basic pay was Rs.13660/- on 01.07.2011. He retired from the service on 31.03.2012.

3. The applicant states that he applied for First Class Passenger Pass for his own family in October, 2011. His request was rejected by the

respondents on the ground of ineligibility. The applicant served a legal notice dated 03.02.2012 reiterating his request, but on 17.02.2012 he received a reply in the negative, and was allowed 2nd Class Pass by the respondents, which is contrary to Railway servant Pass Rules, 1986.

4. In the counter, the respondents state that the applicant is not entitled for 1st class Pass as per conditions laid down in Railway Board L.No.E(10)08/PS/5-1-38 dated 06.01.2011.

5. During the course of hearing learned counsel for the applicant argued that as per Railway Servant Pass Rules. 1986, 11(b) the Railway employees are entitled to get 1st class Passes for themselves and their family if they fulfilled the conditions of being appointed between 1.8.1969 to 31.3.1987 and were drawing pay of Rs.5,375/- or above. This, he submitted, has also been laid down in RBE No.17/99 dated 01.02.1999 (Annexure A/2). Similar clarification has been issued vide corrigendum dated 24.1.2012 hence the denial of 1st Class Pass to the applicant and his family members is wrong and arbitrary.

6. Per contra, the learned counsel for the respondents, Shri Amit Kumar stated that the applicant is not entitled to 1st Class Railway Pass as per the Railway Board's Circular No.E(W)2008/PS 5-1/38, dated 06.01.2011 mentioned in the Corrigendum dated 24.01.2012. He pointed out that the corrigendum dated 24.1.2012, relied upon by the applicant, stipulates as under :

“Hence it is clarified that staff appointed between 01-08-1969 to 10-11-1987 having basic pay of Rs.12800/- including Grade Pay Rs.2800/- are entitled to draw 1st class passes. Because they have already been eligible to draw the same. Railway Board’s circular No.E(W)2800/PS-5/1/36 dated. New Delhi, the 6th January 2011 is crucial and decisive regarding entitlement of class wise passes.”

Shri Amit Kumar further emphasised that the impugned order denying 1st Class Pass to the applicant is based on the conditions laid down in the aforementioned circular dated 06.01.2011, which stipulates that privileges of 1st Class Railway Pass can only be issued to category of employees who are in the grade pay of Rs.4200/- and above. Hence, the benefit of grant of 1st Class Railway Pass has been denied to the applicant who does not fulfil this condition.

7. I have considered the facts of the case. It is not disputed that the applicant retired from service on 31.03.2012 with basic pay of Rs.13,660/- in Pay Band Rs.5200-20200 with Grade Pay of Rs.2800/-. The retirement certificate of the applicant placed on record reads as under:-

“Shri Prakash Chand Chauhan s/o Shri Ratti Ram, posted on Tech-I SSE/CRW/NDLS; date of Birth 1-4-1952; date of appointment 26-4-1977 and 30-09-1983; working with efficiency in railway service, completing his service retired on 31-3-2012. He was working on Pay Band 5200-20200; Grade Pay Rs.2800/-; his basic pay was Rs.13660/-.” We wish yours happy and healthy life.”

8. The Corrigendum dated 24.01.2012, relied upon both by the applicant and the respondent stipulates that :

“Hence it is clarified that staff appointed between 01-08-1969 to 10-11-1987 having basic pay of Rs.12800/-

including Grade Pay Rs.2800/- are entitled to drawn 1st class passes. Because they have already been eligible to draw the same. Railway Board's circular No.E(W)2800/PS-5/1/36 dated. New Delhi, the 6th January 2011 is crucial and decisive regarding entitlement of class wise passes."

9. While the first part of the corrigendum clarifies that the employees of a certain category (employed between 1.8.69 to 10.11.87 having basic pay of Rs.20,200/- including Grade Pay of Rs.2800/-) are entitled for 1st Class Railway Pass, the RBE Circular dated 06.1.2011 mentioned in the circular speaks of grade pay of Rs.4200 and not 2800/-. There is thus an inherent contradiction in the Corrigendum itself. However, since the Corrigendum has been issued on 24.01.2012, subsequent to issue of RBE circular dated 07.1.2011 (dated 6.1.2011), hence the clarification, issued subsequently, should prevail. The applicant cannot be allowed to suffer for the confusing stance of the respondents. Accordingly, the RBE circular dated 06.01.2011 (RB 3/2011) is quashed. OA is allowed. The respondents are directed to issue 1st Class Railway Pass to the applicant and his family under the provision of Railway Servant (Pass) Rules, 1986 (Second Edition, 1993) as per rules, within three months from the date of receipt of certified copy of the order. No costs.

**(Praveen Mahajan)
Member(A)**

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