

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-911/2014

Reserved on : 12.09.2018.

Pronounced on : 17.09.2018.

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

Sh. R.G. Mishra,
S/o Sh. Ram Yagyan Mishra,
Ex-Chief Inspector of Tickets,
North Eastern Railway Izatnagar,
Presently residing at No.15,
Pocket-3, Sukdev Vihar,
New Delhi.

.... Applicant

(through Mrs. Meenu Mainee, Advocate)

Versus

Union of India through

1. Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi.

2. General Manager,
North Eastern Railway,
Gorakhpur.

3. Divisional Railway Manager,
North Eastern Railway,
Izatnagar.

.... Respondents

(through Ms. J. Priyadarshini for Sh. K.S. Prasad, Advocate)

ORDER

Through the medium of this O.A., the applicant seeks grant of post retirement complimentary railway passes, for himself and his

family (wife and unmarried daughter) under schedule-IV of Railway Servants (Pass) Rules, 1986.

2. Briefly stated, the applicant was working as Chief Inspector (Tickets) in North Eastern Railway in 2005. He joined the CBI in 2001 and was subsequently absorbed there. The same was accepted by the competent authority and the applicant was relieved from North Eastern Railway on 20.08.2008 vide their letter dated 23.09.2009. The applicant retired voluntarily from CBI on 05.12.2012.

3. The applicant in para 1.3 of O.A. submits that as per provisions enshrined in Railway Servants Pass Rules, post retirement complimentary passes may be issued to a railway servant after his retirement or after he ceases to be a railway servant. In Railway Board Circular No. E(TRG)62/PS 5/9 dated 10.10.1963, it is laid down that complimentary passes are issued to employees retiring on superannuation, retiring voluntarily, retiring on medical grounds, retiring compulsorily, removed from service and employees whose resignations have been accepted for goods or sufficient grounds from the point of view of administration. The aforesaid rules clearly provide that the applicant who had served the railways for almost 25 years before being sent on deputation to CBI is entitled to post retirement complimentary passes, particularly, when the condition of atleast 20 years has already been fulfilled by the applicant. The

applicant avers that he had served major part of his service and was with the CBI only for a short while before seeking compulsory retirement, as per rules. He is entitled to complimentary passes in terms of Pass Rules contained in para-8 of Railway Servant Pass Rules, 1986, which stipulate that:-

"Post retirement complimentary passes may be issued to a railway servant after his retirement or after he ceases to be railway servant and as per Schedule IV of the Rules."

The Railway Board vide Circular No.E(TRG)/62/PS/9 dated 10.10. 1963 clarified that the eligibility for complimentary passes/post retirement passes is as under:-

"complimentary passes are issued to employees retiring on superannuation, retiring voluntarily, retiring on medical grounds, retiring compulsorily, removed from service and employees whose resignation have been accepted for goods or sufficient grounds from the point of view of administration."

4. When the applicant submitted a representation to APO on 17.09.2012 requesting for issue of post retirement complimentary passes, the same was rejected on the ground that the applicant was not eligible as per Rules. The applicant submitted representations to Sr. DPO against the decision of the APO, and finally to Chief Vigilance Officer, Gorakhpur. All the representations were rejected on the ground that the passes are issued only to retired railway servants. Vide order dated 11.10.2012, the applicant was informed that his entire service period has been transferred to CBI, and the

applicant had not retired from the Railways, hence the facility requested cannot be allowed/granted to him.

5. The respondents in their counter submit that the applicant submitted a technical resignation, while on deputation with the CBI which was duly accepted by the competent authority. The applicant opted to add his railway services with the CBI and take the retiral benefits of his government service from the CBI. He did not opt for the benefit of paras-53(1) and 53(3) of Railway Service (Pension) Rules, 1993.

5.1 They have relied upon para-53(1) of Railway Service (Pension) Rules, 1993 notified by Railway Board, which stipulate that:-

"A Railway Servant who has been permitted to be absorbed in a service under a corporation or company wholly or substantially owned or controlled or financed by central or state government, shall be deemed to have retired from service from the date of such absorption and subject to sub rule (3) of the said para 53, he shall be eligible to receive retirement benefits, if any, from such date as may be determined, in accordance with the order of the Railway applicable to him."

6. During the course of hearing, the learned counsel for the applicant Ms. Meenu Mainee forcefully argued that the applicant has put in more than 20 years of his service with Railways. The respondents have denied issuance of complimentary railway pass to him and his family, on the technical ground that because his service, rendered in the Railways have been transferred to CBI for pensionary benefits, hence the complimentary pass cannot be given to him.

This stand, she argued is contrary to the rules which stipulate that complimentary passes can be issue even to employees who tender resignation, or are removed from service.

7. Per contra, the learned counsel for the respondents Ms. J. Priyadarshini submitted that the applicant cannot be treated as having retired from railways. She emphasized that in accordance with the Railway Rules, the employees are issued family identity cards and complimentary passes after "retirement" from the Railways. The applicant, after his technical resignation from the Railways, chose to transfer his entire service to CBI for pensionary purposes. As per the Railway Service Rules, 1986, there is no provision for issuing complimentary passes to employees, who have tendered technical resignation and have opted for receiving pension from another department.

8. I have given my thoughtful consideration to the facts of the case and also considered the rival submissions of both sides.

9. The claim of the applicant is for grant of "post retirement passes" for himself and for his wife and unmarried daughter. It is not disputed that he was permanently absorbed in CBI and his technical resignation was accepted by the competent authority on 18.09.2009. It is equally true that he did not opt for the benefit of railway service as per Para-53(1) and Para-53(3) of Railway Service

(Pension) Rules, 1993. Though he had the option to count his service rendered with the Railways for pension, but he opted to transfer his entire railway service to CBI. After adding his services rendered in the Railways and the CBI, he is taking the retiral dues and other benefits of his entire service period, from the CBI.

10. Schedule-IV for Post Retirement Complimentary Passes cited by the applicant, in my view, is applicable only to the employees who retire from the service of the Railways. The applicant in the O.A. is not a retiree of the Railways. The benefit of post retirement complimentary passes is permissible only to the railway employees, under the normal rules. It would not be available to the applicant since he is a retired government servant of the CBI and is receiving his pension and other benefits from the said organization. He, therefore, cannot get the benefit of complimentary passes from the railways.

11. The master and servant relationship between the applicant and the Railways has come to an end. O.A. is dismissed being devoid of merit. No costs.

(Praveen Mahajan)
Member (A)

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