

OA.No.170/00384-00387/2016/CAT/Bangalore Bench
**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00384-00387/2016

DATED THIS THE 12th DAY OF JUNE, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

1. Shantharam Naik

S/o. Rohidas Naik
Aged about 29 years
Working as Keyman
S.W.R., Mysore Division
O/o. S.S.E. P-Way
S.R.F.Section SAGAR
Residing at C/o Shivamma
No.466, Behind Railway
Colony, at & post
KUMSI-577423.

2. Vinayaka Nagesh Setty

S/o.Nagesha Setty
Aged about 32 years
Working as Keyman
S.W.R., Mysore Division
O/o S.S.E. P-Way
S.R.F.Section, SAGAR
Residing C/o Sri Venkatappa
Belegundi, Post: Ullur
Pin-577 401
Sagar Taluk, Shimoga District.

3. Gururaja, S/o Rama

Aged about 33 years
Working as Keyman
S.W.R., Mysore Division
Office of the S.S.E. P-Way
S.R.S.Section, SAGAR
R/at Near Railway Gate
Arasalu, Pin-577 426
Hasanagara Taluk.

4. Nagaraja, S/o.Subbaiah

Aged about 32 years
C/o.Chandrapande
Behind Railway Colony
Kumsi-577 423
Shimoga Taluk & District.

.....Applicants

(By Advocate Sri M.R.Achar)

Vs.

1. The General Manager
South Western Railway
Hubli Zone, HUBLI.

2. The Senior Divisional Personal Officer
Mysore Division, MYSORE.

....Respondents

(By Advocate Sri.J.Bhaskar Reddy)

O R D E R

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicants have filed the present OA seeking the following relief:

“Issue direction to the respondents to prepare and publish the seniority list of Track Maintainer, Grade I in G.P. of Rs.2800/- and also consider their cases for future promotion and also issue further direction to extend the benefit of G.P. Rs.2800/- and issue such other direction as deems fit in the circumstances of the case and award cost.”

2. According to the applicants, they joined the respondent organisation as Trackman in the pay scale of Rs.5200-20200 with Grade Pay of Rs.1800. They were promoted as Keyman vide order dated 23.9.2013 in the same pay scale i.e. PB-1 with GP Rs.1800 vide Annexure-A1. The Railway Board vide order dated 4.3.2014 (Annexure-A2) and 22.9.2014 (Annexure-A3) re-designated the post of Keyman and Gangmate as Track Maintainer Grade-I in PB-1 with GP of Rs.2800 in place of GP Rs.1800 and Rs.1900. They further mentioned that 2nd respondent prepared the Provisional Seniority List on 1.7.2014(Annexure-A4) but they were not included in the category of Track Maintainer Grade-I and even in the category of Keyman with GP Rs.2800. The applicants made representation vide Annexure-A5. However, no action was taken.

3. The applicants claim that in the context of the Railway Board order at Annexure-A2 and A3, they should come under the grade of Track Maintainer Grade-I with GP of Rs.2800. The authority is under legal obligation to prepare the seniority list of Track Maintainer Grade-I and hence they prayed for granting the relief as sought by them.

4. The respondents in their reply statement have taken preliminary objection that the applicants have not submitted any representation to the respondents to redress their grievance before approaching the Tribunal. They submitted that the applicants who joined the respondent organisation in May, 2012 as Trackman in PB-1 with GP Rs.1800 were posted as Keyman along with others for day to day maintenance of track work locally from willing employees in the same existing pay and pay band. Hence, no promotions were involved to a higher grade pay. The Railway Board vide RBE No.91/2012 dtd.17.8.2012 considered the career progression of trackmen along with review of their existing channel of promotion etc., and decided that the existing category of Trackmen/Gatemen/Trollymen/Watchmen/Keymen in PB-1, Grade Pay Rs.1800 and Mates (P WAY) in PB-1, Grade Pay Rs.1900 in the Permanent Way side of Civil Engineering Deptt. of Indian Railways will henceforth be operated as a unified cadre of Track Maintainer as per the following pattern.

*i. The categories of Trackman/ Trollyman/
Gateman/ Watchman/ Keyman in Civil*

Engineering Deptt. (P WAY) in PB-1, Grade Pay Rs.1800 be clubbed and given the designation of Track Maintainer Grade-IV (PB-1, Grade Pay Rs.1800).

- ii. The Mates (P.Way) in PB-1, Grade Pay Rs.1900 may be re-designated as Track Maintainer Grade-III (PB-1, Grade Pay Rs.1900). This would be the next level of promotion for Track Maintainer Grade-IV.*
- iii. Post in PB-1, Grade Pay Rs.2400 of unified cadre of Track Maintainer to be filled from eligible staff from the next lower Grade Pay of Track Maintainer category based on seniority cum suitability and may be designated as Track Maintainer Grade-II.*
- iv. Post in PB-1, Grade Pay Rs.2800 of unified cadre of Track Maintainer to be filled from eligible staff from the next lower Grade Pay of Track Maintainer category based on selection and may be designated as Track Maintainer Grade-II.*

Accordingly revised structure of unified cadre of Track Maintainer would be as under:-

SN.	Designation	Pay Structure	%age distribution of post
1.	Track Maintainer-I	PB-1, GP Rs.2800	3
2.	Track Maintainer-II	PB-1, GP Rs.2400	6
3.	Track Maintainer-III	PB-1, GP Rs.1900	20
4.	Track Maintainer-IV	PB-1, GP Rs.1800	71

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5. Further instructions regarding norms/procedure for future recruitment and promotion in the Unified Cadre of Track Maintainer was issued vide RBE No.81/2013 dated 13.8.2013(Annexure-R2). The Railway Board issued further RBE No.111/2014 dated 14.10.2014(Annexure-R3) modifying norms/procedure for future promotions in the Unified Cadre of Track Maintainers. They submit that the placements and promotions of Track Maintainer are guided by the above three RBEs. The Railway Board letter dtd.4.3.2014 and 22.9.2014(Annexures A2 & A3) referred to by the applicants is no way concerned in promotion of Unified Track Maintainer category. These letters are issued only for detailed duties/responsibilities attached to each post in the revised pattern and corresponding changes in Permanent Way Manual/Safety Manuals, training manuals etc.

6. The respondents further mentioned that in terms of para 214(c) (i) of Indian Railway Establishment Manual Vol.I(Annexure-R4) for actual promotion of employees from one grade to another grade, employees must render 2 years' service in the lower grade. In the category of Track Maintainer which is one of the safety category post, relaxation of 2 years' service is not permissible. The applicants who are appointed in May 2012 were put under probation for 2 years from their date of appointment and they will be eligible for promotion only on completion of 2 years' probation period/residency period as per the existing provision.

7. On the contention made by the applicants about non-preparation of seniority list of Track Maintainer Grade I, they submit that administration can prepare the seniority list of a particular grade when there are incumbents in that particular grade. If there are no incumbents in a particular grade, there is no meaning in the publication of seniority list of that particular grade. The category of Track Maintainer Grade-I in Pay Band 1 with GP Rs.2800 is a new category introduced vide RBE No.91/2012 on restructuring in the categories of Track Maintainer. On the date of publication of seniority list, there were no Track Maintainer Grade I and as such there was no publication of the seniority list of Track Maintainer Grade-I.
8. The respondents further submitted that the applicants are seeking to re-designate them as Track Maintainer Grade I in Pay Band 1 with GP Rs.2800. This is permissible only when an employee is in PB 1 with GP Rs.2400 and has become eligible for promotion as Track Maintainer Grade I. Hence, re-designation of the applicants in PB 1 with GP Rs.1800 cannot be considered. Therefore, they submit that there is no merit in the contention made by the applicants.
9. The applicants have filed a rejoinder wherein they submitted that in 4th CPC and 5th CPC, the scale of Keyman is higher than the scale of Trackman. In the 6th CPC, all the grades of Keyman and Trackman were merged in the revised pay scale of PB-1 with GP Rs.1800. The duties of trackman and keyman are distinct and they are more responsible than the trackman. They

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 keyman has to cover a distance of 13 kms to 20 kms daily on foot. They have also referred to various provisions in the Indian Railway Permanent Way Manual to highlight the duties of Keyman. They further submitted that the Senior Section Engineer notified and called for option and willingness to work as Gangman and Keyman. The applicants have submitted their willingness and after that the test was conducted for selection to the post of Keyman and all the applicants were found fit. Thereafter they were sent for training in the cadre of Keyman and only thereafter they were promoted as Keyman. They further mentioned that they made representations directly. The Union also wrote for granting higher pay scale in terms of Railway Board order. Therefore, in terms of the Railway Board's order dtd.22.9.2014, they are entitled to be granted PB-1 with Grade Pay of Rs.2800.

10. We have heard the Learned Counsel for both sides. Both sides have also submitted their written arguments. The Learned Counsel for the applicants particularly referred to Annexure-A1 order promoting the applicants as Keyman and the Annexure-A2 and A3 order of the Railway Board saying that the order clearly specified that Keyman and Gangmate have been re-designated as Track Maintainer in PB-1 with Grade Pay of Rs.2800 in place of existing GP of Rs.1800 and 1900. The Railway Board's order is very clear and there is no ambiguity. All that they are asking is to implement the said Railway Board's order and extend the benefit in their favour.

11. The Learned Counsel for the respondents, on the other hand, highlighted the contention made in the reply statement and referred to RBE pertaining to the restructuring of Track Maintainer cadre. He says that Annexure-A1 order which came after initial restructuring of Track Maintainer placed the applicants in PB-1 with GP Rs.1800. The applicants who joined in 2012 have not even completed 2 years while assigning the duties of keyman. Annexure-A2 and A3 which have been relied on by the applicants indicated the duties and responsibilities attached to each post in the revised pattern. The Railway Board issued instructions for restructuring of Trackman cadre and procedures for promotion in the Unified Cadre of Track Maintainer and only a person in PB-1 with GP of Rs.2400 can be considered for promotion to Track Maintainer Grade-1. The Railway Board does not mention that a person working in PB-1 with GP Rs.1800 shall be automatically placed in PB-1 with GP Rs.2800 bypassing the normal avenue of promotion as contended by the applicants. Therefore, the contention of the applicants does not merit any consideration.

12. We have carefully considered the facts of the case and submissions made by either side. It is evident from the records and submissions that the applicants joined as Trackman in 2012. According to the submission of the applicants, which has not been refuted by the respondents, on option being called to work as Gangmate and Keyman, they expressed their willingness and they were found fit after a test was conducted and they were promoted as Keyman. The office order

OA.No.170/00384-00387/2016/CAT/Bangalore Bench No.10/2013 dtd.23.9.2013 (Annexure-A1) mentions promotions to Gang Mate and Keyman and names of the applicants figured showing their present designation as Trackman and proposed designation as Keyman. Under remarks column it is mentioned that they are posted against existing vacancy on administrative ground. In the notes below it is mentioned that the promotions are ordered subject to the condition that there are no DAR/SPE/Vigilance cases pending or contemplated against them as on date of promotion and they are not under punishment. This clearly shows that the respondents considered the shifting of the applicants from Trackman to Keyman as a case of promotion even though the office order, the applicants were placed in the same pay scale i.e. PB-1 with GP Rs.1800. It is also to be noted that this office order was issued after restructuring/reorganisation of staffing pattern of Trackmen on Indian Railways vide RBE No.91/2012 dtd.17.08.2012.

13.As per RBE No.91/2012 pertaining to restructuring/reorganisation of staffing pattern of Trackman, the Trackmen were kept under four categories of Grade-IV in PB-1 with GP Rs.1800, Grade-III in PB-1 with GP Rs.1900, Grade-II in PB-1 with GP Rs.2400 and Grade-I in PB-1 with GP Rs.2800. The restructuring order also specified percentage of distribution of posts and shows that 71% posts will be for Track Maintainer-IV, 20% posts for Track Maintainer-III, 6% posts for Track Maintainer-II and 3% posts for Track Maintainer-I. This appears to us as logical keeping in view a pyramidal structure of the

cadre. The said order also mentioned that the categories of Trackman/ Gateman/ Trolleyman/ Watchman/Keyman in Civil Engineering Department be clubbed and given the designation of Track Maintainer in PB-1 with GP Rs.1800. No doubt there is merit in the argument of the respondents that a promotion to next level has to follow a pattern and if a person straight away is promoted to the cadre of Track Maintainer Grade-I which is the highest level, then there will be no further promotional avenues in the restructured Track Maintainer cadre. One can only presume that while issuing communication dtd.4.3.2014 and 22.9.2014, the Railway Board has taken this into account though there is no clarity on this issue. The respondents have highlighted the normal promotional pattern in which a person in the immediate lower grade with a minimum service of two years in that grade will be eligible for promotion. And hence they contended that the claim of the applicants to come to Track Maintainer Gr-I straight away from Gr-IV i.e. from GP of Rs.1800 to GP of Rs.2800 is therefore illogical and cannot be considered. If the South Western Railway or other zones were of this view then they should have taken up the matter with Railway Board in regard to their communications dtd.4.3.2014 and 22.9.2014 but they did not do so. Hence the said communication and directions therein stands.

14. The applicants have only placed emphasis on the Railway Board communication dtd.4.3.2014(Annexure-A2) and 22.9.2014(Annexure-A3). The communication dtd.4.3.2014 mentioned as follows:

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In terms of recent developments in the cadre of track maintenance categories, the scenario w.r.t. field personnel has undergone a major change. Based on recommendations of the Joint Committee, while few letters have already been issued by Board in connection with various allowances to Trackman categories, their Career Progression has also been approved by Hon'ble MR. The summarised status is as under-

- *Existing Trackmen have been given career progression in the form of three categories of Track Maintainers Grades-IV, III & II in Grade Pay of Rs.1800, 1900 and 2400 instead of existing GP of Rs.1800.*
- *Existing Keyman and Gangmate have been redesignated as Track Maintainer Grade-I in GP of Rs.2800 instead of existing GP of Rs.1800 & 1900*

15. The communication dtd.22.9.2014 which is the corrigendum to Indian Railways P.Way Manual with regard to the duties of Track Maintainers in Grade-I to Grade-IV reads as follows:

*Government of India
Ministry of Railways
(Railway Board)*

No.2010/CE-I(Spl)/GNS/15/Pt.I New Delhi, Dated 22.09.2014

*The General Managers,
All India Railways.*

*Sub: Corrigendum to Indian Railways P.Way Manual (IRPWM)
w.r.t. the duties of Track Maintainers in Grade-I to Grade-IV.*

1. *Ministry of Railways have already approved reorganisation of staffing pattern of Trackmen to Track Maintainers Grade-I, II, III & IV on Indian Railways vide Railway Board's letter No.2010/CE-I(Spl)/GNS/15(Pt.), dated 17.08.2012.*
2. *In pursuance to above, Board (ME) have approved duties of such reorganised Trackmen categories under Engineering Department as under:*
 - i) *Categories of Mate and Keyman are re-designated as Track Maintainer Gr.I in Grade Pay of Rs.2800;*
 - ii) *Categories of Gangman/ Trackman/ Gateman/ Trolleyman/ P.Way Watchman are re-designated as Track Maintainer Gr.II (GP Rs.2400), Track Maintainer Gr.III (GP Rs.1900) and Track Maintainer Gr.IV (GP Rs.1800).*
3. *Therefore, the existing duty/assignments, as mentioned in various*

Chapters of IR P.Way Manual w.r.t the categories of Mate, Keyman, Gangman, Trackman, Gateman, Trolleyman, P.Way Watchman will accordingly be applicable for Track Maintainers Gr.I, Gr.II, Gr.III & Gr.IV, as detailed in Para 2 above.

4. *It is further clarified that in each unit of SSE (P.Way), senior person posted as Track Maintainer Gr.I will perform the existing duties of Gangmate and the junior persons in Track Maintainer Gr.I will be assigned the existing duties of Keyman.*

16. The aforesaid communication clearly mentioned that the categories of Mate and Keyman are re-designated as Track Maintainer Gr.I in Grade Pay of Rs.2800. This also corresponds to the previous communication dtd.4.3.2014 wherein it is mentioned that the existing Keyman and Gangmate have been re-designated as Track Maintainer Grade-I in GP of Rs.2800 instead of existing GP of Rs.1800 & 1900. The respondents have referred to para-4 of the communication dtd.22.9.2014 saying that senior person posted as Track Maintainer Gr.I will perform the existing duties of Gangmate and the junior persons in Track Maintainer Gr.I will be assigned the existing duties of Keyman. However, this does not take away the fact that both are kept in Track Maintainer Gr.I only.

17. From the above facts, it is clearly evident that even though the arguments put forth by the respondents highlighting the grading structure and the fact that a person in GP of Rs.1800 cannot be directly placed in GP of Rs.2800 have some logic, it is the Railway Board who in their communication have indicated that Keyman shall be re-designated as Track Maintainer Gr.I in GP of Rs.2800 instead of GP of Rs.1800 & 1900. It is also an undisputed fact that the applicants though initially joined as

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Trackmen were officially promoted as Keyman by the respondents. Therefore, though they were initially in PB-1 with GP of Rs.1800, in the light of the communications issued by the Railway Board to all the General Managers on 4.3.2014 and 22.9.2014, their claim for GP of Rs.2800 as Track Maintainer Gr.I cannot be disputed and they are entitled to the same.

18. Therefore, we hold that the prayer of the applicants to provide the benefit in accordance with the Railway Board communications dtd.4.3.2014 and 22.9.2014 appears justified and accordingly we allow the OA and direct the respondents to extend necessary benefits of pay scale applicable to Keyman to the applicants in terms of Railway Board communications dtd.4.3.2014 and 22.9.2014. This shall be done within a period of three(3) months from the date of receipt of copy of this order.
No order as to costs.

(P.K.PRADHAN)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicants in OA.170/00384-00387/2016

Annexure-A1: Copy of the promotion order dated 23.9.2013
Annexure-A2: Copy of the Board order dated 4.3.2014
Annexure-A3: Copy of the Board order dated 22.9.2014
Annexure-A4: Copy of the Provisional seniority list dated 1.7.2014
Annexure-A5: Copy of the representation

Annexures with reply statement:

Annexure-R1: Copy of RBE No.91/12
Annexure-R2: Copy of RBE No.81/13
Annexure-R3: Copy of RBE No.111/14
Annexure-R4: Copy of Para 214(c)(i) of IREM Vol.I

Annexures with rejoinder:

Annexure-A6: Copy of Notification
Annexure-A7 & A8: Copies of representation
Annexure-A9 to A12: Copies of Pay Slips
Annexure-A13 to A17: Copies of Certificates

Annexures with written arguments filed by the applicants:

-NIL-

Annexures with written arguments filed by the respondents:

-NIL-
