

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Applications Nos.

203/633,638,641,642,643,644,645,730,731,733,754/2017

Jabalpur, this Tuesday, the 24th day of July, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

(1) ORIGINAL APPLICATION NO. 203/00633/2017

Nitish Kumar S/o Shri Akhilesh Kumar Ray,
Aged about 32 years, Working as AA/SECR/BSP,
R/o Near Satbahaniya Mandir, Bilaspur (C.G.)-495004 -**Applicant**
(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(2) ORIGINAL APPLICATION NO. 203/00638/2017

Ram Sagar Prasad, S/o Shri Sita Ram Sao,
Aged about 40 years, Working as AA/SECR/BSP,
R/o Hemunagar, Bilaspur (CG)-495004 -**Applicant**

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(3) ORIGINAL APPLICATION NO. 203/00641/2017

Randhir Kumar S/o Shri Mahesh Prasad Singh,
Aged about 29 years, working as AA/SECR/BSP
R/o Janak Dulari Bhawan, Gurunanak Chowk,
Torwa Bilaspur (CG)-495004

-Applicant

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(4) ORIGINAL APPLICATION NO. 203/00642/2017

Prem Kumar S/o Shri Bhola Nath Kumar,
Aged about 41 years, working as AA/SECR/BSP,
R/o Flat No. 306, Narayani Tower, Hemunagar,
Bilaspur (CG)-495004

-Applicant

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(5) ORIGINAL APPLICATION NO. 203/00643/2017

Upendra Kumar, S/o Late Arjun Sharma,
Aged about 33 years, Working as AA/SECR, BSP,
R/o Zeenat Vihar, Phase No.2, Bilaspur (CG)-495004

-Applicant

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(6) ORIGINAL APPLICATION NO. 203/00644/2017

Ranjan Kumar S/o Late Shri Vinod Pandit,
Aged about 33 years, Working as AA/SECR/BSP,
R/o Vivekanand Colony, Bilaspur (C.G.)-495004 **-Applicant**

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(7) ORIGINAL APPLICATION NO. 203/00645/2017

Bikash Kumar S/o Shri Ramswarup Sharma,
Aged about 35 years, Working as AA/SECR/BSP,
R/o Flate No. 311, Narayani Tower, Hemunagar,
Bilaspur (C.G.)-495004

-Applicant

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,

Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. FA&CAO (G), South East Central Railway,
Bilaspur (C.G.)-495004

-Respondents

(By Advocate –**Shri Vivek Verma**)

(8) ORIGINAL APPLICATION NO. 203/00730/2017

Manoj Kumar S/o Shri Ashok Prasad,
Working as Chief Commercial Clerk/SECR/Tumsar Road,
Aged about 32 years, O/o Tumsar Road Booking Office,
Distt-Bhandara (M.H.) 441913, 9752878958

-Applicant

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. UOI, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. Assistant Personnel Officer, South East Central Railway,
Divisional Office, Personnel Department, Kings way,
Nagpur (M.H.)-440001

-Respondents

(By Advocate –**Shri Vivek Verma**)

(9) ORIGINAL APPLICATION NO. 203/00731/2017

Rajeev Ranjan Rakesh, S/o Shri Surendra Kumar,

Working as Chief Commercial Clerk/ SECR/Dongargarh,
Aged about 32 years, O/o Dongargarh Booking Office,
SECR, Dongargarh, District-Rajnandgoan, Chhattisgarh-491445
9752878958 **-Applicant**

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. UOI, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. Assistant Personnel Officer,
South East Central Railway,
Divisional Office, Personnel Department, Kings Way
Nagpur (M.H.)-440001 **-Respondents**

(By Advocate –**Shri Vivek Verma**)

(10) ORIGINAL APPLICATION NO. 203/00733/2017

Sohan Dev, Aged about 32 years, S/o Shri Pancham Singh,
Presently working as Goods Guard, Under CSM/Shahdol,
R/o Qtr. No. 99/1, Railway Colony Shahdol,
Madhya Pradesh, 484001, Mobile No. 9752598126 **-Applicant**

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. Union of India, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. Sr. Div. Personnel Officer, South East Central Railway,
Bilaspur, Chhattisgarh-495004 **-Respondents**

(By Advocate –**Shri Vivek Verma**)

(11) ORIGINAL APPLICATION NO. 203/00754/2017

Sanjay Kumar S/o Shri Kailash Prasad,
Working as Dy. SS/SECR/DGG, aged about 40 years,
O/o Station Superintendent Dongargarh, District Rajnandgoan,
Chhattisgarh-491445, 7049795471 **-Applicant**

(By Advocate –**Shri A.V.Shridhar**)

V e r s u s

1. The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
Raisena Road, Rafi Marg, New Delhi-110001

2. UOI, through the General Manager,
South East Central Railway, New GM Building,
Bilaspur, Chhattisgarh-495004

3. Chief Personnel Officer, H/Q Personnel Department,
First Floor, GM Office, South East Central Railway,
Bilaspur (CG)-495004

4. Assistant Personnel Officer, South East Central Railway,
Divisional Office, Personnel Department, Kings Way,
Nagpur (M.H.)-440001 **-Respondents**

(By Advocate –**Shri Vivek Verma**)

(Date of reserving the order:-20.07.2018)

C O M M O N O R D E R

By Navin Tandon, AM:-

The issue involved in all the Original Applications is the same. Hence, these are disposed off in a common order. The facts,

stated in Original Application No. 203/00641/2017 are being mentioned here.

2. The applicant(s) are aggrieved by the fact that their applications for Inter Railway Transfer (IRT) have been cancelled by South East Central Railway (SECR) vide orders dated 22.09.2015 (Annexure A-1).

3. The undisputed facts of the case are that the applicant had applied for IRT to East Central Railway (ECR) after completing the required minimum time spent in SECR and the application was forwarded to ECR. No objection was received from ECR vide letter dated 13.08.2015 (Annexure A-2).

3.1 Meanwhile, Railway Board issued Comprehensive Transfer Policy for Railway Officers on 31.08.2015 (Annexure A-3) which mentioned

“(xi) In terms of Para 124 of IREC, Vol. I, GMs have full powers to make rules with regard to non-gazetted Railway Servants. No change is recommended. Maximum tenure on sensitive posts will, however, be 4 years. In case of non-gazetted Railway employees, no inter railway transfer request will be considered till completion of 5 years of joining Railway.”

3.2 Consequently, SECR issued instructions dated 22.09.2015 (Annexure A-1), as under:-

“2. All the applications received before the issue of this circular and have been forwarded to Headquarter, registered or not registered and forwarded or not forwarded to Other

Railways stand automatically cancelled if they have not yet completed 5 years of service in the working post after training as on 31.08.2015. The affected Railway employees may apply on completion of 5 years service on working post, after training, which will be considered as per circular dated 29.12.2014. In those cases, where the IRT application has already been forwarded to other Railway and approval have been received or likely to be received may also be treated as cancelled for those who have not completed 05 yrs service as on 31.08.2015.”

3.3 As a result, the request of IRT of the applicant was treated as cancelled.

4. The following relief has been sought for by the applicant in this Original Application:-

“8. Relief Sought :

(8.1) That the learned Tribunal may kindly be pleased to call the entire records pertaining to the case of the applicant.

(8.2) That, the Hon’ble Tribunal may kindly be pleased to quash the impugned order no. SECR/HQA/ADMN/CC/203/995/2016/333 and order no. SECR/HQA/ADMN/CC/203/143/2017/334 dated 03.05.2017 (Annexure A-1).

(8.3) That, the Hon’ble Tribunal may kindly be pleased to hold that the policy dated 31.08.2015 and 22.09.2015 operate prospectively.

(8.4) That, the Hon’ble Tribunal may kindly be pleased to quash the policy dated 22.09.2015 to the extent that it automatically cancels the approved cases of Inter Railway Transfer of the applicants who have not completed five years of service as on 31.08.2015 being arbitrary and illegal.

(8.5) That, the Hon’ble Tribunal may kindly be pleased direct the respondent SECR to relieve the applicant to the requested railway.

(8.6) Cost of the petition be awarded to the applicant.

(8.7) Any other relief which the learned Tribunal deems fit and proper may be awarded.”

5. The respondents have submitted that the applicant had not completed 5 years as on 31.08.2015. Therefore, his application was cancelled as per rules.

5.1 The respondents have averred that IREC Vol. I specifies power to frame rules (extracts in Annexure R-2) as under:-

“Power to Frame Rules:-

123. The Railway Board have full powers to make rules of general application to Group C and Group D railway servants under their control.

124. The General Managers of Indian Railways have full powers to make rules with regard to railway servants in Group C & D under their control provided they are not inconsistent with any rules made by the President or the Ministry of Railways.”

5.2 Therefore, respondent No.2 is competent to frame such rules for Group C and Group D employees. Annexure A/1 has been issued in exercise of those powers.

6. The applicant had approached this Tribunal in Original Application No. 203/00995/2016, wherein discrimination against the applicant was alleged in that one similarly placed employee was released on IRT. The respondents in their speaking order, as per direction of this Tribunal, had stated that the said employee’s case was considered by the competent authority on out of turn basis as an exceptional case not to be quoted as precedent.

7. Heard the counsels of both the parties and pleadings available on record.

8. Though, neither the applicant nor the respondents have spelt out the minimum time required to be spent at SECR before IRT could be applied prior to 31.08.2015, it is understood to be three years as informed during argument stage.

9. Considering the fact that as on 31.08.2015 the applicant had completed working for three years in SECR, it can safely be stated the applicant has now completed five years. Therefore, his case is eligible to be considered for IRT at present.

10. Learned counsel for the applicant submits that the instructions of Railway Board and SECR should have been applied prospectively, and the date of registration should be considered as the old one. He places reliance on the orders dated 10.08.2016 (Annexure A/9) of Ernakulam Bench of this Tribunal in case of Wasnik Harshvardhan Tarachand vs. The General Manager, Southern Railway in O.A. No. 180/00561/2016.

11. He also submits that the applicant could not apply for IRT after completion of 5 years as the present O.A. was pending.

12. Our Coordinate Bench at Ernakulam have concluded in Wasnik Harshwardhan Tarachand (**Supra**) that, “ it is clear that

Annexure R-6 instructions of the Railway Board in relation to the residency period of five years is applicable only after 31.08.2015.”

13. Learned counsel for the respondents reiterated that cancellation of the application for IRT was as per rules framed by the competent authority. Therefore, the O.A. should be dismissed.

14. We have considered all the arguments. Giving due respect to the orders of our co-ordinate Bench of Ernakulam, we have come to the conclusion that instructions of Railway Board should not have been applied retrospectively.

15. Accordingly, the Original Application is allowed and we direct the respondents that the application for IRT of the applicant should be restored to its original position. We make it clear that this relief is granted only to the applicant(s) before us. No costs.

(Ramesh Singh Thakur)
Judicial Member

rn

(Navin Tandon)
Administrative Member