

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**HYDERABAD BENCH, HYDERABAD**

O.A. No.021/01105/2014

Date of CAV:12.12.2017.

Date of Order : 25.01.2018.

Between :

1. B.Srinivas, s/o Yadaiah,  
aged about 36 yrs, Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Ghatkesar, S.C.Railways,  
Secunderabad.
2. I.Jangaiah, s/o Buchaiah,  
aged about 33 yrs, Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Lingampally, S.C.Railways,  
Secunderabad.
3. B.Krishna Kumar, s/o Venkataiah,  
aged about 40 yrs, Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Madira, S.C.Railways,  
Secunderabad.
4. D.Hanmanth Rao, s/o Ramulu,  
aged about 44 yrs, Occ:Senior Supervisor (P.Way),  
SSE/EC/SC, Engine Controle, S.C.Railways,  
Secunderabad.
5. A.Deva Priyudu, s/o Devadaiah,  
aged about 41 yrs, Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Madira, S.C.Railways,  
Secunderabad.
6. S.K.Babu Lal, s/o Mahaboob Sahab,  
aged about 41 yrs Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Serum, S.C.Railways,  
Secunderabad.
7. K.Gyana Ratnam, s/o Swamy Das,  
aged about 53 yrs, Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Dornakal, S.C.Railways,  
Secunderabad.
8. C.H.Maraiah, s/o Somaiah,  
aged about 56 yrs, Occ:Senior Supervisor (P.Way),  
SSE (P.Way), Madira, S.C.Railways,  
Secunderabad. ... Applicants

AND

1. Union of India, rep., by the General Manager,  
South Central Railway, Rail Nilayam, Secunderabad.

2. The Chief Personnel Officer, S.C.Railways,  
 4<sup>th</sup> Floor, Rail Nilayam, Secunderabad.  
 3. The Senior Divisional Personal Officer,  
 S.C.Railways, 4<sup>th</sup> Floor, Sanchalan Bhavan,  
 Secunderabad Division, Secunderabad. ... Respondents

Counsel for the Applicants ... Mr.K.Phani Raju

Counsel for the Respondents ... Mrs.Vijaya Sagi, SC for Rlys

**CORAM:**

**THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)**

**THE HON'BLE MRS.MINNIE MATHEW, MEMBER (ADMN.)**

**ORDER**

{ As per Hon'ble Mrs.Minnie Mathew, Member (Admn.) }

The applicants, who were initially appointed as Trackmen, were selected as Supervisors Permanent Way (Track Supervisors) through 25% Limited Departmental Competitive Examination quota (LDCE), vide Annexure.A-I orders dated 19.01.2007. While so, the Railway Board issued Annexure.A-III Circular R.B.E.No.45/2007, dated 22.03.2007, phasing out the existing category of Track Supervisor in the scale of Rs.4,500-7,000/- and introducing a category of Senior PermanentWay Supervisor in scale Rs.5,000-8,000/-. The applicants submit that the pay scale of Rs.5,000-8,000/- was further revised in the VI CPC as Rs.9,300-34,800/- with Grade Pay of Rs.4,200/-. The applicants contend that on introduction of the new post of Sr.Permanent Way Supervisors in place of Track Supervisors, the post of Track Supervisors became non existent.

2. The applicants further submit that they were sent for training from 01.02.2007 to 17.03.2007 and have been issued posting orders on 09.04.2007 by which time the new cadre of Sr. Permanent Way Supervisors had come into existence with effect from 22.03.2007. The grievance of the applicants is that although they were selected for Supervisor Permanent Way by the time the aforesaid orders of the Railway Board had come into force, they were not given the scale of Rs.5000-8000/- . They contend that persons who were their juniors and who qualified in the notification dated 28.01.2008 under 50% promotional quota, were given the scale of pay of Rs.5,000-8,000/- and the Grade Pay of Rs.4,200/- as per 6<sup>th</sup> CPC. Even the persons who were appointed by way of Direct Recruitment by the Railway Recruitment Board were also given the Grade Pay of Rs.4,200/- without any waiting period. It is only in their case that the respondents have granted them the scale after completion of more than two years after their selection as Supervisor Permanent Way. Their case is that they should be granted the scale of Rs.5000-8000/-, which has been revised with Grade Pay of Rs.4,200/- in 6<sup>th</sup> Pay Commission with effect from the date of assumption of charge of the post of P.Way Supervisor in April 2007 as done in the case of Direct Recruits and other promoted candidates.

3. It is further submitted that the respondents have issued a Seniority List dated 03.10.2013, wherein the applicants were placed below their juniors who were promoted directly into the cadre of Sr. Permanent Way Supervisor in the Grade Pay of Rs.4,200/- from the lower cadre of

Supervisors. Although they have submitted representations requesting for grant of Grade Pay Rs.4,200 from the date of their assumption of charge as granted to others, there is no response from the respondent-authorities. The applicants therefore pray for a direction to the respondents to grant the scale of pay of Rs.5,000-8,000/- with Grade Pay of Rs.4,200/- from the date of assumption of charge as Supervisor P.Way in April, 2007.

4. The respondents have filed a reply statement contesting the OA. They submit that 19 employees including the applicants were selected and empanelled to the post of Supervisor Permanent Way in the scale of Rs.4,500-7,000/- (V CPC) against 25% LDCE quota. On successful completion of training, they were posted as Supervisors Permanent Way on regular basis, vide office order dated 09.04.2007 and were continued in the same pay in the scale of pay of Rs.4,500-7,000/-, which was replaced in the VI CPC by Pay Band-I of Rs.5200-20200 with Grade Pay of Rs.2800/-.

5. The respondents point out that although the Railway Board, vide their letter dated 22.03.2007 introduced the category of Senior Permanent Way Supervisor with scale of pay Rs.5000-8000/-, the applicants, who were selected as Permanent Way Supervisors under 25% LDCE promotion quota, are not eligible for the newly introduced Senior Permanent Way Supervisors till they complete the minimum residency of 2 years in 2009. Those employees who have been selected as Permanent Way Supervisors before 2009 will automatically be seniors to the present applicants. The

respondents have also relied on the following instructions contained in the Railway Board's letter dated 22.03.2007.

*“As a onetime exception, existing regular incumbents of the post of Track Supervisor (erstwhile P.W.Ministries/Supervisors Permanent Way) would be absorbed in the category of Sr.P.Way Supervisor through promotion through modified selection procedure which will be based only on scrutiny of service records and confidential reports without holding any written or viva-voce tests. The selection Board would consider the claims/suitability of eligible staff one by one in order of their seniority. The Track Supervisors (erstwhile P.W. Ministries/Supervisors Permanent Way) who do not get absorbed (promoted) as Sr.P.W.Supervisor shall continue to hold post/scale of Track Supervisor as personal to them. To this extent, the newly created posts of Sr.P.Way Supervisor will be operated as the posts of Track Supervisors (erstwhile P.W.Ministries/Supervisors Permanent Way) till the existing incumbents vacate the same by way of promotion, retirement etc. On vacation of these posts, the same shall automatically be operated as the posts of Sr P.Way Supervisors.*

*Col. 3.1 - For the above purpose, the condition regarding minimum residency period prescribed by the Railway Board for promotion within Group C Safety categories on the Railways will have to be fulfilled. Those Track Supervisors (erstwhile P.W. Ministries/Supervisors Permanent Way) who do not have the prescribed minimum service would not be absorbed (through promotion) in the new category till they acquire such service.”*

6. As the Railway Board's letter clearly stipulates the minimum residency period of two years in Rs.4500-7000/- for absorption in the new category of Sr. P.Way Supervisor in Rs.5000-8000/-, the applicants selected

in the Grade Pay Rs.4500-7000/- will not be absorbed as Senior Permanent Way Supervisor unless they complete the minimum residency period of 2 years in the lower grade of Rs.4500-7000/-. Thus, the respondents have refuted the contention of the applicants that they should be placed immediately in the Grade Pay of Rs.4200/- on assumption of charge as P.Way Supervisors and before they completed the minimum residency period of 2 years.

7. Heard the learned counsel on both sides and perused the record.

8. From the material on record, it is seen that the applicants who were initially appointed as Trackmen were selected as Supervisors P.Way (Track Supervisors) through 25% departmental examination quota on 19.01.2007 and have undergone training from 01.02.2007 to 17.03.2007. After the completion of training, they were posted as Supervisors P.Way on regular basis vide Annexure.A-2 orders dated 09.04.2007. In pursuance of Annexure.A-3 RBE No.45/2007, which ordered the creation of a new category of Sr.P.Way Supervisors in the scale of Rs.5000-8000/-, the applicants were granted the said scale in 2009 after completion of the minimum residency period of two years.

9. The main contentions of the applicants are that the post of Sr.P.Way Supervisors had already been created by the time they were posted as P.Way Supervisors in April 2007 and that the post of P.Way Supervisors became non-existent consequent on the creation of Sr.P.Way Supervisors. Therefore,

their case is that they should have been placed in the Sr.P.Way Supervisors in scale of Rs.5000-8000/- without any waiting period as the post of P.Way Supervisors became non-existent with effect from the issuance of RBE No.45/2007, dated 22.03.2007. They also contend that they are eligible for Rs.5000-8000/- with Grade Pay of Rs.4200/- as per 6<sup>th</sup> CPC from the date of their assumption of charge of the post of Supervisor P.Way in April 2007 as in the case of Direct Recruits and other promotees.

10. A perusal of RBE No.45/2007 shows that the existing category of Track Supervisors/Supervisors Permanent Way in the scale of Rs.4500-7000/- would be phased out consequent on the introduction of the category of Sr.Permanent Way Supervisor in the scale of Rs.5000-8000/-. It has also been ordered that as a one-time exception, the existing regular incumbents of the posts of Track Supervisor would be absorbed in the category of Sr.Permanent Way Supervisor through promotion through a modified selection procedure which will be based only on scrutiny of service records and confidential reports without holding any written or viva-voce test. The selection board would consider the claims/suitability of the eligible staff in order of their seniority. For the above purpose, the circular also stipulates the requirement of a minimum residency period for promotion within Group 'C' safety category. Further, those Track Supervisors who do not have the prescribed minimum service, would not be absorbed through promotion in the new category till they acquire such service.

11. Thus, the RBE No.45/2007 makes it amply clear that promotion to the post of Sr. P.Way Supervisor is not automatic and that the post of P.Way Supervisor will be phased out in a gradual manner. The Railway Board's circular also states that the Track Supervisors/P.Way Supervisors who do not get absorbed (promoted) shall continue to hold the post of Track Supervisor as personal to them. Therefore, we are unable to appreciate the contention of the applicants that the post of P.Way Supervisors became non existent after creation of the new category of Sr.P.Way Supervisor. Further, absorption to the new post of Sr. P.Way Supervisor will be through a selection process and subject to the fulfilment of the prescribed criteria including the minimum residency period in the safety category. It is pertinent to observe that there is no challenge to RBE No.45/2007 in the OA.

12. The applicants would have a case only if they had fulfilled the criteria and not been considered. They have not produced any material evidence in this regard. Admittedly, the applicants have assumed charge of the post of Permanent Way Supervisors on 09.04.2007 and would necessarily have to satisfy the condition of the minimum residency period prescribed by the Railway Board before being absorbed in the category of Sr. Permanent Way Supervisors. Thus, the action of the respondents is in accordance with the instructions which govern absorption of the existing Track Supervisors in the new category of Sr. Permanent Way Supervisors.

13. The applicants also contend that their juniors have been absorbed earlier to them. Although they have filed a Seniority List, they have neither

challenged the seniority list nor impleaded their juniors nor cited any specific instances of the juniors, who have been placed above them.

14. The applicants have placed reliance on the orders of the Hon'ble High Court at New Delhi in W.P.(C) NO.3677/2013 and contend that they are covered by the said orders. It has been pointed out that the Hon'ble High Court had held as follows:

*“The respondents, principally having agreed to grant the benefits to the petitioners, the benefits must relate back to the date from which the other similarly placed supervisors have been given the benefits i.e., November 01, 2003. Accordingly, we direct the respondents to grant benefits in terms of the communication dated July 03, 2013, as granted to the similarly placed supervisors with effect from November 01, 2013 with all consequential benefits within a period of 3 months.”*

15. We have considered the aforesaid judgment of the Hon'ble High Court at Delhi. The judgment relates to the merger of Sr.P.Way Supervisors in PB Grade-II Grade Pay of Rs.4200/- with Junior Engineer (P.Way) with its spread effect in higher grade PB-II, Grade Pay Rs.4600/-. It has no direct relevance or application to the present case which is in respect of absorption of existing Track Supervisors/P.Way Supervisors in a phased manner in the newly created post of Sr. P.Way Supervisors. Nevertheless, we note that the Hon'ble High Court at Delhi had directed the respondents to grant the benefits to the petitioners therein from the date on which other similarly

placed Sr. P.Way Supervisors have been given the benefits. In this case, the applicants have failed to cite any specific instances of either juniors or similarly placed employees having been given the benefit of the higher pay scale without completion of the minimum residency period. Therefore, reliance on the said judgment is of no help to the applicants.

16. In these circumstances, the OA is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

**(MINNIE MATHEW)**  
**MEMBER (ADMN.)**

**(JUSTICE R. KANTHA RAO )**  
**MEMBER (JUDL.)**

Dated: this the 25th day of January, 2018

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