

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**ORGINAL APPLICATION NO. 768 OF 2011**

**Jabalpur, this Tuesday, the 28<sup>th</sup> day of August, 2018**

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER  
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Suresh Kumar Khurana, S/o Shri Hemraj Khurana,  
Aged about 54 years, Chief Ticket Inspector,  
West Central Railway, Jabalpur (M.P.)-482001      - **APPLICANT**

(By Advocate – Shri Akash Choudhary)

**Versus**

1. Union of India West Central Railway,  
Through its General Manager, Indira Market,  
Jabalpur (M.P.)-482001

2. Railway Board, Rail Bhawan, New Delhi-110001  
Through its Chairman

3. Divisional Railway Manager (Personnel)  
West Central Railway, Jabalpur (M.P.)-482001      - **RESPONDENTS**

(By Advocate – Shri S.Ganguly)

*(Date of reserving the order: 26.04.2018)*

**O R D E R**

**By Navin Tandon, AM-**

The applicant is aggrieved by non-grant of incentives under the sports policy for officiating as international referee.

2. The applicant is working as Chief Ticket Inspector under the respondent-railways. He is also a sportsman as well as international referee/umpire for the Volleyball. He was recruited under sports quota.

The respondent No.2 issued a sports policy dated 30.03.2007 (Annexure A-4) for grant of incentives etc. under the Sports Quota. Vide letter dated 09.07.2008 (Annexure A-5) issued by the Railway Board, para 9.3A was inserted in the said policy dated 30.03.2007 wherein incentive to the referee/umpire has also been granted.

**2.1** The applicant vide his letter dated 25.08.2009 (Annexure A-6) had submitted that he had participated in the following international events as an Umpire/Coach:

- (1) 26 to 28 June 2009 World Championship Qualification(Men)  
Tehran (Iran)
- (2) 12 to 14 July 2009 World Championship Qualification  
(Women) Bangkok (Thailand)
- (3) 31<sup>st</sup> July to 9<sup>th</sup> Aug.2009 Junior World Championship (Men)  
Pune (India)

**2.2** In support of his claim he had annexed a certificate issued by the Volleyball Federation of India dated 12<sup>th</sup> September, 2009. However, his representation was rejected vide order dated 15.06.2011 (Annexure A-2) by referring to Railway Board's letter dated 14.07.2010 (Annexure A-1) and Railway Board's policy dated 09.07.2009 (Annexure A-3), stating that only five increments are payable during the whole service period and the applicant has already been given these incentive increments at the time of his appointment.

**2.3** The claim of the applicant is that by the impugned Railway Board's policy dated 09.07.2009 (Annexure A-3) the respondents have withdrawn some of the provisions of the initial Railway Board's policy on Sports Quota dated 30.03.2007.

**2.4** The applicant has contended that the respondents have withdrawn Para 9.3.5 of the letter dated 30.03.2007 arbitrarily without application of mind because the incentives granted to the Sportsman for their performance/participation in sports activity is all throughout different than the incentive which is awarded to an international referee/umpire. Para 9.3.5 ibid clearly stipulates that "this increment shall be in addition to those, if any, granted for the sports achievements as a player".

**2.5** The applicant states that he is a good athlete/sportsman as well as an international referee of Volleyball. The basic spirit of the order dated 09.07.2008 whereby the provision especially para 9.3A has been inserted and the incentives to the referees/umpire have been granted is having altogether different motives than the incentives to an incumbent under sports quota. Both the incentives cannot be merged and has to be looked into in isolation as per their own merit. Therefore, the respondents have wrongly rejected the claim of the applicant.

**2.6** The applicant has contended that the grant of increments for the referees/umpires has been introduced vide order dated 09.07.2008

(Annexure A-5) and thereafter the applicant is constantly representing the matter to the respondents and during this period the applicant participated in various events as referee. Still the respondents are not granting the same to the applicant.

**2.7** The applicant has further stated that by creating a supernumerary post and by grant of H.P.S./increment (special case) promotions were granted to one Mr.Sanjeev Kumar. In the present case the respondents are showing adamant attitude for no valid reason.

**3.** The applicant has prayed for the following reliefs:-

*8(i) Summon the entire material record pertaining to the instant controversy from the respondents for its kind perusal.*

*(ii) Quash and set aside the impugned orders Annexure A-1 dated 15.6.2011 and Annexure A-2 dated 14.07.2010.*

*(iii) Quash and set aside the letter dated 09.07.2008(sic-09.07.2009) especially whereby the para 9.3.5 of Board's policy letter dated 30.03.2007 has been withdrawn.*

*(iv) After granting the relief no.(ii) and (iii) direct the respondent authorities to grant five increments to the applicant as Umpire/Referee from the date of his entitlement along with arrears and appropriate interest thereon.*

**4.** The respondents have submitted that the policy dated 09.07.2009 (Annexure A-3) is correct which does not call for any interference by this Tribunal in its judicial scrutiny, since it is the domain of the department to introduce or withdrawn any motivational policy for its employees. Para

9.3.5 of the letter dated 30.03.2007 has rightly been cancelled. The spirit of the aforesaid withdrawal is that a sportsman should be granted five increments in his career being a sportsman either as a sportsman or coach or referee/umpire. Participation as International Referee/Umpire is also a sports activity and cannot be looked into in a separate category. The case of the applicant was referred to the Railway Board but the Railway Board vide its letter dated 14.07.2010 has declined the demand of the applicant on the basis of a Railway Board letter dated 09.07.2009 in which it is mentioned that only five incentive increments can be granted to a Railway servant in his entire service career. The applicant has already been granted fixation of pay at the maximum in the grade of Rs.260-400 at Rs.400/- as per the judgment of this Tribunal in O.A. No.324/1993 (Shri Suresh Kumar Khurana & another Vs. Union of India and others) decided on 23.04.1996 (Annexure R-1).

**4.1** The respondents have further stated that the Railway Board is competent and is vested with the powers to frame or withdraw any policy either in whole or in part. Hence the withdrawal of clause 9.3.5 of the Board's letter dated 30.03.2007 can not be said to be violative of the fundamental rights of the applicant.

**4.2** As regards the case cited by the applicant of Mr.Sanjeev Singh the respondents have stated that the said case is of Southern Railway,

wherein Mr.Sanjeev Singh was allowed out of turn promotion. On the contrary, the applicant is claiming incentive increment.

**5.** In his rejoinder the applicant has submitted that he was appointed as Ticket Collector under the sports quota and should have been fixed in the maximum of the pay scale of Rs.260-400. The said benefit in no way can be equated with the benefit of grant of five increments in terms of circular dated 30.03.2007. Para 9.3A of the Railway Board letter dated 09.07.2008 (Annexure A-5) specifically details the grant of two advance increments subjected to total five increments in the entire carrier to the referee/umpires who excel at their international level in the sports event recognised by the national sports federation. The applicant has further stated that it was a conscious decision on the part of the respondents to grant additional incentive in the shape of advance increments to the coaches who are serving the department. The applicant has further submitted that the achievement acquired by the applicant is prior to the issuance of the clarification dated 09.07.2009 (Annexure A-3). Even otherwise, in terms of the instructions contained in the letter dated 09.07.2008 (Annexure A-5), whereby Para 9.3A is inserted after para 9.3 of the policy letter dated 30.3.2007 the applicant is entitled to get benefit of five increments.

**5.1** The applicant has submitted that he was never granted benefit of five increments as incentive in his entire service carrier. The only benefit

granted to the applicant being sports quota employee was his pay was fixed at the maximum in terms of earlier circular dated 21.2.1986, therefore, the incentive which is due to the applicant on account of his exceptional contribution as a referee cannot be negated on unfounded grounds.

6. Heard the learned counsel of both sides and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. We may first reproduce herewith relevant Para 9.3 of the policy letter No. E(Sports)/2007/Polilcy/3 dated 30.03.2007 (RBE No.48/2007) (Annexure A-4), which talks about incentives to Coaches as under:

**“9.3 Incentives to Coaches:**

*9.3.1 Performance of coaches shall be reviewed once in a financial year and one additional increment may be granted to the coaches attached to Indian Railways teams who rendered exemplary service and contribute to the good performances of Indian Railways teams during the year.*

*9.3.2 This increment may be granted by the Zonal Railways/Production Units on the advice of Railway Board.*

*9.3.3 The number of increments shall not exceed five, as a coach, in service career.*

*9.3.4 The increment shall be granted from the first day of the month following the concluding day of the Championship.*

**9.3.5 This increment shall be in addition to those, if any, granted for the sports achievements as a player”.**

7.1 Thereafter the Railway Board vide their letter dated 9<sup>th</sup> July,2008 (Annexure A-5) issued orders for grant of incentives to Referees/Umpires by inserting Para 9.3A in aforementioned Railway Board's policy letter dated 30.03.2007 (Annexure A-4), which read thus:

**“Para No.9.3A : Incentives to Referees/Umpires :**

*Two advance increments may be granted for each event, subject to total five increments in the entire career to Referees/Umpires who excel at the international level in the sports events recognized by the National Sports Federations. The increments so granted would be continued to be drawn at the same rate till retirement. The term ‘excellence’ would mean that the Umpire/Referee has been accepted as a Referee/Umpire by the International Federation governing the particular sports discipline and has performed the duties in International Competitions recognized by the such International Federation. However, no such incentive will be allowed to those Referees/Umpires, who perform such duties at the National level”.*

**7.2** Vide RBE No.124 of 2009 dated 9<sup>th</sup> July, 2009 (Annexure A-3)

the Railway Board issued orders on the subject of higher fixation of pay of sportspersons at the time of initial appointment on Railways and on their out of turn promotion on sports account, by referring to their policy letter No. E (Sports)/2007/Polilcy/3 dated 30.03.2007 (RBE No.48/2007).

Relevant paragraphs of the said order read thus:

*“The issue of granting incentive increments to Railway sportspersons on sports account has been reconsidered in Board’s office in consultation with the Finance Directorate. Railway Board have decided that **henceforth only five incentive increments will be granted to a Railway Servant in entire service career,** on sports accounts. The incentive increments granted to sportspersons would continue to be drawn at the same rate till retirement and these increments will not be counted for any service matters like pay fixation on promotion, retirements or DA/CCA etc. These increments will be in the form of Personal Pay, equal to the amount of the next increment due at the time of grant of the concession and will remain fixed during the entire service.*

*These incentive increments will be granted only for the sports achievements of sportspersons after joining the Railways. Therefore, henceforth, pay of the sportspersons shall be fixed at the minimum of the scale of pay on their initial appointment and with normal fixation on their out of turn promotion on sports account.*

***In view of above, Para 8.2, 9.3.5 and 9.6(e) and Column 3 (with heading "Fixation of Pay") of Para 8.1.1 and 8.1.2 of Board's policy letter dt.30.03.2007 referred above, shall be treated as cancelled.***

*However, in really outstanding cases, Railway Board can grant higher fixation of pay to a sportsperson at the time of initial appointment subject to maximum five increments. Railways/Units can send the proposals of outstanding sportspersons, having medal winning performances in recognized National/International Championships; for higher fixation of pay at the time of initial appointment; with the recommendation of General Manager.*

*This issues with the concurrence of the Finance Directorate of the Ministry of Railways (Railway Board)".*

***(emphasis supplied by us)***

8. On a thorough reading of all the above three circulars on the issue of grant of incentives to sportsperson, it is crystal clear that earlier there was a provision for grant of up to five increments to coaches and these increments were in addition to those, if any, granted for the sports achievements as a player in terms of Para 9.3.5 of Railway Board's order dated 30.03.2007 (Annexure A-4). Thereafter the Railway Board inserted Para 9.3A by which two advance increments were granted for each event, subject to total five increments in the entire career to Referees/Umpires who excel at the international level in the sports events recognized by the National Sports Federations and these increments so granted would be continued to be drawn at the same rate till retirement. However, by impugned order dated 09.07.2009 (Annexure A-3) issued by the Railway Board Para 9.3.5 of the Railway Board's letter dated 30.03.2007 (Annexure A-4) has been cancelled, and it has been directed in the said

letter that **henceforth** only five incentive increments will be granted to a Railway Servant in entire service career. We find that the said letter dated 09.07.2009 has been issued after concurrence of the Finance Directorate of the Ministry of Railways (Railway Board). The applicant has failed to point out any illegality or irregularity in issuing said letter dated 09.07.2009 warranting our interference.

**9.** Since the applicant's pay had already been fixed at the maximum of the pay scale of Rs.260-400 at Rs.400/- at the time of his initial appointment being a sportsperson, he cannot now be given further incentives after issuance of the Railway Board's letter dated 9<sup>th</sup> July, 2009.

**10.** However, on perusal of applicant's letter dated 25.08.2009 (Annexure A-6) we notice that the applicant has officiated as International Referee in some events which took place after 9<sup>th</sup> July, 2008 (Annexure A-5) but before 9<sup>th</sup> July, 2009 (Annexure A-3) i.e. during the period said incentive scheme was in vogue. In terms of para 9.3.5 of Railway Board's letter dated 30.03.2007 (Annexure A-4), these incentives shall be in addition to those, if any, granted for the sports achievements as a player. Therefore, denial of said incentive to the applicant for these events is not sustainable

**11.** In this view of the matter, this Original Application is partly allowed with a direction to the respondents to grant two advance increments for each event (before 09.07.2009) subject to total five increments to the applicant for his performance as Referee/Umpire in terms of Railway Board's letter dated 9<sup>th</sup> July 2008 (Annexure A-5). However, the applicant shall not be entitled to benefit of two increments for any event in which he participated after issuance of Railway Board's letter dated 9<sup>th</sup> July, 2009 (Annexure A-3). No costs

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

*rkv*