



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

O. A. No. 350/1237 of 2017.
MT 758/2017

1. Subir Kumar Ghosh, son of late Sachindra Nath Ghosh, aged about 52 years, residing at Vill. Sreekanan Pally, P.O. Batanagar, Dist. South 24 Pgs., Kolkata- 140.
2. Probhas Kumar Nandan, son of late Biswanath Nandan, aged about 54 years, residing at 23, Chandi Ghosh Road, P.O. Genent Park, Kolakata- 700 040.
3. Sudip Sarkar, son of late Rabindranath Sarkar, aged about 50 years, residing at 187/3, Sardarpara Brahmapur, P.S. Bansdroni, P.O. Brahmapur, Kolkata- 700 096.
4. Swapna Kumar Sarkar, son of late Panchanan Sarkar, aged about 52

WAB

years, residing at 24/B, Garia Para,

P.O. Garia, Kolkata- 700 084.

5. Subhajit Guha Thakurta, son of late Benoy Guha Thakurta, aged about 54 years, residing at 72/14, Becharam Chatterjee Road, Behala, Kolakta- 700 034.

6. Murari Prasad, son of late Sheo Narayan Sahu, aged about 54 years, residing at 80/5, Raja Ram Mohan Roy Road, Kolkata- 700 041.

7. Gouranga Das Sinha, son of late Santanu Kumar Sinha, aged about 49 years, residing at 227 J. Mahatma Gandhi Road, Kusum Park, P.O. Haridevpur, Kolkata- 700 082.

9. Mrityunjoy Chatterjee, son of late
Niranjan Chatterjee, aged about 54
years, residing at 9/2 (5)
MONDALPARA Road, 2nd Floor, Flat
-D, Front Side, Shyama Pally,
Kolkata- 700 034.

10. Arun Kumar Jana, son of late
Achyutanuj Jana, aged about 55
years, residing at Ira Apartment-1,
2nd Floor, Flat No. 3, Jadunath Ukil
Road, P.O. Paschim Putiary,
Kolkata- 700 041.

11. Ram Balak Prasad, son of late
Ram Prasad Mahto, aged about 55
years, residing at 53, Prantik Park,
South Roy Nagar, P.O. Bansdroni,
Kolkata- 700 070.

12. Bibekranjan Das, son of late
Chittaranjan Das, aged about 57
years, residing at Udayan Pally,
Bata Nagar, South 24 Pgs., Kolkata-

13. Dipak Bandyopadhyay, son of
 Sri Debdas Bandyopadhyay, aged
 about 51 years, residing at Block
 No. C/18, Vidya Sagar Sarani,
 Barabagan, P.O. Thakurpukur,
 Kolkata- 700 063, Dist. South 24-

Pgs.

14. Pranaya Kishore Mohapatra,
 son of late Radhanath Mohapatra,
 aged about 50 years, residing at
 Flat No. A-6/12, Soushalee Co-
 operative Society Ltd., Siriti, 1, Raja
 Ram Mohan Roy Road, Kolkata-
 700 041.

15. Md. Ehsanul Haque, son of
 late Sk. Sanaullah, aged about 54
 years, residing at Vill. & P.O.
 Mathpalsa, P.S. Sainthia, Dist.
 Birbhum, Pin : 731 234.

16. Jitendra Nath Mandal, son of
 late Pravash Chandra Mandal, aged
 about 56 years, residing at Anjali

Kunj, Flat No. 2B, 1st Floor, 37/4,
 Naktala Road, Aurobinda Nagar,
 P.S. Netaji Nagar, Kolkata-700 047.

17. Mrinal Kanti Das, son of late
 Mohendra Ch. Das, aged about 56
 years, residing at Ira Apartment-1,
 203, Jadunath Ukil Road, P.S.
 Haridevpur, Kolkata-700 041.

18. Asim Kumar Ghosh, son of
 late Sibaram Ghosh, aged about 55
 years, residing at B 32, Brahmapur
 South, P.O. Brahmapur, P.S.
 Bansdroni, Kolkata-700 096.

19. Pritimoy Roy, son of late
 Ramesh Ch. Roy, aged about 54
 years, residing at 112B, M. G.
 Road, P.O. & P.S. Haridevpur,
 Kolakta-700 082.

20. Bishnu Das, son of late Anath
 Bandhu Das, aged about 50 years,
 residing at 67, Naskarpura Road,

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Paschim Putiary, P.S. Haridevpur,

Kolkata- 700 041.

21. Samir Kumar Roy, son of late

Dharmadas Roy, aged about 53

years, residing at 286/1, New

Shibtala Road, Jora Pukur,

Bansdroni, P.S. Regent Park,

Kolkata- 700 070.

22. Rabi Ranjan Bhakat, son of

late Ram Ranjan Bhakat, aged

about 53 years, residing at Rabi

Ranjan Bhakat, C/o. Late Ram

Ranjan Bhakat, Vivekananda Road,

Rampurhat, Opp. to Rampurhat

Drug House, Dist. Birbhum, P.S.

Rampurhat, Pin: 731 224.

23. Subodh Kumar Sinha, son of

Sri Yogendra Prasad, aged about

52 years, residing at 80/5, Raja

Ram Mohan Roy Road, Baishali

Appt., P.S. Behala, Kolkata - 700

041.

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24. Mahendra Kumar Sahoo, son of late Shyam Sahoo, aged about 48 years, residing at 7, Haridevpur New Road, P.S. Haridevpur, Kolkata- 700 082.

25. Prasanta Kumar Karan, son of Rabindra Nath Karan, aged about 53 years, residing at "Ashalata Apartment", 1, Sodepur 1st Lane, Motilal Gupta Road, P.O. Haridevpur, Kolkata- 700 082.

26. Prasanta Kumar Jena, son of Raghunath Jena, aged about 50 years, residing at 1/273 (1st Floor), Naktala Anand Apartment, P.O. Naktala, Kolkata- 700 047.

27. Amitava Sarkar, son of Radha Binode Sarkar, aged about 52 years, residing at Chandraprova, Flat No. B2 (2nd Floor), 22/7/1, Pranabananda Road, Gari, P.O.

AC

Garia, Dist. South 24-Pgs., Pin :

700 084.

28. Projnan Majumder, son of late Binoy Majumder, aged about 55 years, residing at 9, Subodh Park, P.O. & P.S. Bansdroni, Kolkata-

700 070.

29. S. Pattabhi Ram, son of S.P. Ramachandrudu, aged about 52 years, residing at Flat No. A/3/1, Siriti Housing Estate, 1, Raja Rammohan Roy Road, Kolkata- 700

041.

30. Amulya Prasad Mishra, son of Abhimanyu Mishra, aged about 51 years, residing at Soiurav Apartment, 422-D, M. G. Road, P.O.

Haridevpur, Kolkata- 700 082.

31. Biswadip Kumar Kar, son of late Birendra Nath Kar, aged about 54 years, residing at 4D, 529F,

Verd

Mahatma Gandhi Road,

Haridevpur, Kolkata- 700 082.

32. Dilip Kumar Santra, son of

late, Bijoy Krishna Santra, aged
about 56 years, residing at B-29,

Brahmapur South, P.O.

Brahmapur, P.S. Bansdroni,

Kolkata- 700 096.

33. Goutam Chattopadhyay, son

of Ajit Chattopadhyay, aged about
52 years, residing at Rabindra

Nath Road, P.O. Gondalpara, Nutan

Telighat, Dist. Hooghly, Pin : 712

137.

34. Samir Kuamr Bandyopadhyay,

son of late Bidhan Ch.

Bandyopadhyay, aged about 54

years, residing at 42/A, D. Gupta

Lane, Kolkata- 700 050.

35. Gautam Bose, son of late Dilip

Kumar Bose, aged about 53 years,

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residing at 579, R. N. Tagore Road,

P.O. Bediapara, Kolkata- 700 077.

36. Dipankar Chakraborty, son of

late Nidhu Bhushan Chakraborty,
aged about 53 years, residing at
504/3, Mahajati Nagar, Kalabagan,

P.O. Birati, Kolakta- 700 051.

37. Pradip Bose, son of late K. N.

Bose, aged about 56 years, residing

at Airview Apartment 6, 177, Purba
Sinthee Road, P.O. Ghugudanaga,

Dist. North 24-Pgs., Kolakta- 700

030.

38. Sudip Kuamr Biswas, son of

Jogneswar Biswas, aged about 50
years, residing at 16, Ashokegarh

(East), P.O. ISI, Kolakta- 108.

39. Tarun Kumar Acharjee, son of

late Akhil Ch. Acharjee, aged about

54 years, residing at Vill. Rampur,

P.O. Anara (RS), Dist. Purulia,

W.B., Pin : 723 126.

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40. Kiranmoy Paul, son of late Hiranmoy Paul, aged about 53 years, residing at 176/4, Kantadanga Road, P.O. Fingapara, Dist. North 24-Pgs., Pin : 743 129.

41. Subir Kumar Bhadra, son of late Dulal Krishna Bhadra, aged about 52 years, residing at Debjani Apartment, 2 No. Town Colony, B.T. Road, Panihati, Kolkata- 700 114.

42. Amitava Bose, son of Ajit Kumar Bose, aged about 55 years, residing at 20/2, Moira Danga Road, Baranagar, Kolkata- 700 036.

43. Tushar Ranjan Ghosh, son of late Renupadado Ghosh, aged about 54 years, residing at 5/A, Old Calcutta Road, P.O. Rahara, Dangapara, Dist. North 24-Pgs., Pin : 700 118.



44. Mrityunjoy Mitra, son of late

Pankoj Mohan Mitra, aged about 56

years, residing at 12/62, P. C.

Ghosh Road, P.O. Sree Bhumi,

Kolkata- 700 048.

45. Abhinaba Sen, son of

Madhusudan Sen, aged about 52

years, residing at 15, Rishi Bankim

Road, P.O. Nimta, Kolkata- 700

049.

46. Debajyoti Basu, son of D.

C. Basu, aged about 50 years,

residing at 41, Jagannath Ghat

Lane, P.O. Mahesh, Jagannath

Apartment, 2nd Floor, Dist. Hooghly,

Flat No. 301, Pin : 712 202.

47. Tarun Kanti Samajdar, son of

late Gurudas Samajdar, aged about

57 years, residing at I. C. Road,

Chowdhuri Para, P.O. Rahara, Dist.

North 24-Pgs. Kolkata- 700 118.

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48. Chanchal Chinya, son of late

Sambhu Nath Chinya, aged about

55 years, residing at 13, P. K. Dutta

Sarani, P. O. Bhadrakali, Uttarpara,

Dist. Hooghly, Pin: 712 232.

49. Debajyoti De, son of late

Nirmal Ch. De, aged about 55

years, residing at 37/1,

Karunamoyee Lane, P.O.

Haridevpur, Kolkata- 700 082.

50. Ranjit Sarkar, son of late

Nanigopal Sarkar, aged about 53

years, residing at 24, Purba Sinthee

Lane-A, Dum Dum, Kolkata- 700

030.

51. Mrinal Kanti Manna, son of

late Birendra Nath Manna, aged

about 53 years, residing at 16/1,

Motijheel Avenue, Flat No. 2G,

Brajabus Apartment, P.O.

Motijheel, Kolkata- 700 074.

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52. Goutam Dasgupta, son of late
Dilip Kr. Dasgupta, aged about 57
years, residing at 1911, Rabindra
Nath Tagore Road, Bediapara,
Kolkata- 700 077.

53. Subrata Paul, son of late
Yudhishthir Paul, aged about 51
years, residing at Block No. 9/C,
Flat No. 19, Beleghata, C.I.T.
Building (Old), P.O. Beleghata,
Kolkata- 700 010.

54. Semidul Islam, son of Md.
Mekeil Ali, aged about 56 years,
residing at Flat NO. 2/1, Baitaliki,
14, I. C. Road, P.O. Raharah, Dist.
North 24-Pgs., Pin : 700 118.

55. Ajoy Kumar Datta, son of late
Bisweswar Datta, aged about 59
years, residing at Anubhab
Complex, 1st Floor, 17, I. C. Road,
P.O. Rahara, Kolkata- 700 118.



56. Sasthi Charan Pramanik, son of Srinath Chandra Pramanik, aged about 55 years, residing at 106/36/4, Mission Para, P.O. Rahara, Dist. North 24-Pgs., Pin : 700 118.

57. Rabindra Nath Jena, son of Sanatan Jena, aged about 49 years, residing at Flat No. 2D, 2nd Floor, Block-I, Bhawani Dreams, 9, Sreema Road, P.S. Dum Dum, Kolkata- 700 065.

All except applicant No.19 are working as Motorman now known as Senior Motorman Metro Railway, Kolkata and the Applicant No. 19 is now working as Chief Loco Inspector, Metro Railway, Kolkata.

...Applicants.

1. Union of India through the General Manager, Metro Railway, Kolkata, Metro Rail Bhawan, J. L. Nehru Road, Kolkata- 700 071.
2. The Secretary, Railway Board, Rail Bhawan, New Delhi- 110 001.
3. Deputy Director, Pay Commission/V Railway Board , Rail Bhawan, New Delhi- 110001
4. The Chief Personnel Officer, Metro Railway, Metro Rail Bhawan, J. L. Nehru Road, Kolkata- 700 071.
5. The General Manager (P), Metro Railway, Kolkata, Metro Rail Bhawan, J. L. Nehru Road, Kolkata- 700 071.

... Respondents.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

**No. OA 350/12372017
MA 350/758/2017**

Date of order : 29.8.2017

Present: Hon'ble Mr.A.K.Patnaik, Judicial Member

For the applicant : Mr. S.K.Dutta, counsel

For the respondents : Mr.B.L.Gangopadhyay, counsel

O R D E R

Mr.A.K.Patnaik, J.M.

Heard Mr.S.K.Dutta, Id. Counsel appearing for the applicant and Mr. B.L.Gangopadhyay, Id. Counsel appearing for the respondents.

2. MA 758/2017 filed under Rule 4(5)(a) of CAT (Procedure) Rules, 1987 is allowed.

3. This OA has been filed by the applicant under Section 19 of the A.T. Act, 1985 seeking the following relief :

- a) An order holding that grant of MACP benefits/ decision to grant MACP benefits to the Direct Recruit Motormen of Metro Railway, Kolkata in the Grade Pay of RS.4600/-, Rs.4800/- and Rs.5400/- in PB-2 in exclusion of inducted Motormen of Metro Railway, Kolkata like the applicants as contained in Railway Board circular dated 28.3.2017 although for all Motormen in Metro Railway, Kolkata there is difference in promotional scope at all between direct recruits and absorbed Motormen, is neither bona fide nor justified in as much as discriminatory and arbitrary;
- b) An order holding that the application of RBE No. 142/2012 in case of the applicants is bad in law, arbitrary and the same is not applicable at all when there is no difference in promotional post/channel of Motormen of Metro Railway, Kolkata either Direct Recruit or absorbed;
- c) An order holding that the applicants like Direct Recruit Motormen of Metro Railway, Kolkata are/were also entitled to financial upgradations in the Grade Pay of Rs4600/-, Rs.4800/- and Rs.5400/- in PB-2 and accordingly, the MACP benefits granted to the applicants in the Grade Pay of Rs.4600/- in PB-2 was not wrongful and was in order;
- d) An order holding that withdrawal of MACP benefits of the applicants in the Grade Pay of Rs.4600/- in PB-2 as communicated to them is totally arbitrary and unlawful and cannot be sustained;
- e) An order holding that decision of recovery and/or recovery, if any, are totally arbitrary and unlawful and cannot be sustained;
- f) An order quashing and/or setting aside the impugned communications issued to the applicants in April, 2017 for

withdrawal of MACP benefits and for recovery and an order directing the respondents to grant all consequential monetary benefits including refund of the amount, if any, recovered from the applicants pursuant to the impugned communications at Annexure A/7 to this application;

- g) An order directing the respondents to produce/cause production of all relevant records;
- h) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper.

4. As per the ld. Counsel for the applicant the sum and substance of the OA is that the applicants are all working as Motorman, now re-designated as Senior Motorman in Metro Railway, Kolkata and they were all inducted initially in Metro Railway, Kolkata as Motorman and subsequently absorbed permanently in Metro Railway, Kolkata w.e.f. 25.5.2006 on formation of separate cadre in Metro Railway, Kolkata and all Metro Railway employees were encadred in Metro Railway, Kolkata from that date as on the said date the separate cadres in Metro Railway, Kolkata were formed.

In Metro Railway, Kolkata there is no normal channel of promotion of Motormen by way of seniority-cum-fitness or merit-cum-seniority but there is a promotional scope for all Motormen irrespective of mode of appointment in Metro Railway, Kolkata to the post of chief Loco Inspector in the Grade Pay of Rs.4600/- in PB-2 in Metro Railway, Kolkata. The applicants were granted MACP to the next Grade Pay hierarchy of the Grade Pay of Motormen i.e. Rs.4200/- to RS.4600/- in PB-2 but after a lapse of long period the said benefits have been decided to be withdrawn with a further decision to make recovery from the salary of the applicants in view of RBE No. 142 of 2012 i.e. on the ground that there is no promotional posts of Motormen in Metro Railway, Kolkata in the Grade Pay of Rs.4600/- in PB-2 although in case of Direct Recruit Motormen of Metro Railway, Kolkata the said benefits have been granted pursuant to a Railway Board's letter dated 28.3.2017 although in terms of promotional scope both the applicants i.e. the absorbed Motormen of Metro Railway, Kolkata being permanently absorbed after induction in Metro Railway, Kolkata with lien in Metro Railway, Kolkata and Metro Railway, Kolkata Direct Recruits are on the same footing.



The applicants made representations against the decision of withdrawal of MACP benefits and recovery received by them in April 2017, but to no effect and the respondents without considering the said representations are taking steps for recovery.

Hence this application.

5. Mr.Dutta fairly submitted that the grievance of the applicants will be more or less addressed if a direction is issued to the respondent No.4 to consider the representations preferred by the applicants on different dates (Annexure A/9 collectively to the OA) and pass appropriate orders within a specific time frame.

5. I do not think it will be prejudicial to either of the sides if such a direction is given and accordingly without entering into the merits of the case, the OA is disposed of at the admission stage by directing the respondent No.4 to consider the representations, if any such representations have been preferred by the applicants and the same are still pending consideration and dispose them of by passing a well reasoned and speaking order and communicate the same to the applicants within 3 months from the date of receipt of this order.

6. Though I have not expressed any opinion on the merit of the matter and all the points raised in the representations are kept open for the said respondent No.4 to consider the same as per the rules and regulations in force, still then I hereby direct that after such consideration if the applicants' grievance is found to be genuine then expeditious steps may be taken within a further period of 2 months from the date of such consideration to extend those benefits to the applicants. I also direct that till such representations are considered and disposed of, no further recovery from the salary of the applicants shall be initiated.

7. However, I also made it clear that if in the meantime the said representations have already been considered and disposed of, the result be communicated to the applicants within a period of 4 weeks from the date of receipt of this order.



8. With the aforesaid observation and direction the OA is disposed of at the admission stage itself. No costs.

9. As prayed for by Mr.Dutta, a copy of this order along with the paper book of this OA be transmitted to respondent No.4 by Speed Post for which he will deposit the cost with the Registry within a period of one week. A free copy of this order be handed over to Mr.B.L.Gangopadhyay, Id. Counsel for the respondents.

(A.K.PATNAIK)
MEMBER (J)

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