

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00256/18
with
CP/050/00040/18 & MA/050/00247/18

Date of Order: 18.07.2018

C O R A M

HON'BLE MR. K.N. SHRIVASTAVA, ADMINISTRATIVE MEMBER
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER

Suman Kumar Mishra, Son of Sri Uma Kant Mishra, Ex-Constable, Railway Protection Special Force, North Frontier Railway, New Jalpaiguri presently working as Clerk (Security) at R.P.F. Post (P), Jalpaiguri, N.F. Railway, Jalpaiguri- 734007.

..... Applicant.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, North Frontier Railway, Maligaon (Guahati), Pin Code- 781001.
2. The General Manager (Personnel), North Frontier Railway, Maligaon (Guahati), Pin Code - 781001.
3. The Divisional Railway Manager, North Frontier Railway, Katihar (Bihar), Pin Code- 854105.
4. The Senior Divisional Personnel Officer, North Frontier Railway, Katihar (Bihar), Pin Code – 854105.
5. The Senior Divisional Security Commissioner, Railway Protection Force, North Frontier Railway, Katihar (Bihar), Pin Code- 845105.
6. The Senior Divisional Financial Manager, North Frontier Railway, Katihar (Bihar), Pin Code- 854105.

..... Respondents.

- By Advocate(s): - Mr. Mukundjee, Sr. Panel Counsel
Mr. S.K. Ravi, Standing Counsel for Railways.
Mr. S.K. Griyaghey, Railway advocate.

ORDER
[ORAL]

Per Mr. K.N. Shrivastava, A.M.:- The applicant was initially appointed as a Constable in RPF which carries the Grade Pay of Rs. 2000/- in PB-I. He was medically decategorized in the year 2014. The respondents Railway department vide Annexure A/1 order dated 05.02.2018 have given him alternative placement as Junior Clerk in the Security Department. The grievance of the applicant is that the post of Junior Clerk carries lower Grade Pay of Rs.1900/- and as such, his deployment against the post of Junior Clerk is in violation of Rule-304 of Indian Railway Establishment Code Vol. I.

2. The respondents in para 6 of their written statement have stated that there is no post in the clerical grade of Security Department carrying Grade Pay of Rs. 2000/-. However, the respondents have said that although the post of Junior Clerk carries Grade Pay of Rs. 1900/- but in exercise of their powers under paragraphs 1308, 1309 and 1310 of IREM Vol. I, they have ensured that the Grade Pay of the applicant at Rs. 2000/- is protected.

3. Shri Dixit, learned counsel for the applicant submitted that the alternative placement given is in gross violation of Rule 304 of IREC and if the respondents do not have a post in the Security Department carrying the Grade Pay of Rs. 2000/-, the applicant may either be posted in another department against a post carrying the Grade Pay of Rs. 2000/- or a supernumerary post be created in the

Security Department itself with the Grade Pay of Rs. 2000/- against which the applicant could be posted.

4. We have heard the arguments of the learned counsel for the parties at length and have also perused the pleadings. Admittedly, the applicant, after his medical decategorization, has to be given alternative appointment. The respondents have tried to accommodate him in the Security Department by giving him alternative placement as Junior Clerk which, however, has slightly lesser Grade Pay of Rs. 1900/-. The respondents, however, have taken cognizance of the fact that the pay of the applicant is required to be protected. Therefore, they have decided to protect the Grade Pay of the applicant at Rs. 2000/- by exercising their powers under paragraphs 1308, 1309 and 1310 of IREM Vol. I. We are of the view that this is a fair action on the part of the respondents. We would like to observe that in order to settle such anomalous situation in its Ministries and Departments, the Central Government have often resorted to grant of personal pay so that the government servants concerned do not suffer any financial loss.

5. In the conspectus, we do not find anything amiss in Annexure A/2 order of the respondents qua the applicant. Accordingly, we dismiss this OA. We, however, direct the respondents to release the salary of the applicant up to date, if not done already. This shall be done with a period of four weeks.

6. In view of the final disposal of the OA, all ancillary applications also stand disposed of and all interim orders stand vacated.

7. The applicant has filed CCPA/050/00040/18 in this OA. In view of final disposal of the OA, the said CCPA also stands dismissed.

[Jayesh V. Bhairaiva]
Judicial Member
Srk.

[K.N. Shrivastava]
Administrative Member