

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
OA/050/00655/15**

Reserved on: 17.01.2019  
Pronounced on: 21.01.2019

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER  
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Amrish Ranjan, son of Shri Chitranjan Prasad, presently posted at Krishna Shila Railway Station as Crew Controller under Chief Loco Inspector, Krishna Shila, Dhanbad Division, E.C. Railway, Dhanbad.

..... Applicant.

- By Advocate(s): - Mr. S.K. Dutta with Mr. S.K. Singh

-Versus-

1. The Union of India through General Manager, EC Railway, Hajipur At, PO-Hajipur, District- Vaishali (Bihar).
2. The A.G.M., EC Railway, Hajipur, At, PO- Hajipur, District- Vaishali.
3. The Divisional Railway Manager, Dhanbad Division, EC Railway, Dhanbad.

..... Respondents.

- By Advocate(s): - Mr. S.K. Ravi

**O R D E R**

**Per Dinesh Sharma, A.M.:-** The case of the applicant is that after being medically de-categorized as loco pilot, as recommended by the concerned Screening Committee he was first posted as Chief Operating Superintendent in the scale of Pay of Rs. 9300-34800 + Grade pay of Rs. 4600/- . It was later changed to Crew Controller at the same pay scale but with Grade Pay of Rs. 4200/- (instead of Rs. 4600/- sanctioned earlier). He challenged this order earlier before the Ranchi Bench of this Tribunal on grounds of it being violative of the Railway Board's relevant rules, circulars and practice. This case was disposed of with a direction to the Respondent No. 2 to dispose of

the representation of the Applicant with a speaking order in the light of the relevant rules and instructions of the Railway Board. This speaking order justifies giving him the Crew Controller's job as being more suitable taking into account his past experience. It considers the stipulation regarding 75000 km loco-running experience as not relevant for medically de-categorized loco staff. It justifies giving lesser Grade pay since as per the Master Circular No. 25 (quoted in the speaking order) a medically de-categorized person cannot be absorbed in a job carrying higher pay than what he was drawing at the time of such de-categorization. Since his Grade pay was only Rs. 4200 in the job from which he was de-categorized, he is allowed only 4200/- as Grade Pay in the Crew Controller's job. The applicant has questioned speaking order in this OA as not being legal and in proper compliance of this Tribunal's orders. According to him the Crew Controller's job, as per the relevant Pay Commission's recommendations, carries a Grade Pay of Rs. 4600, which cannot be reduced by Respondent No.2. He has also questioned giving a job to him, which, as per the Railway Board circulars, can be given only to those who have 75000 kilometres of loco driving experience, which he does not possess. He has requested to consider his absorption against other jobs, e.g., Welfare Inspector, which carry a grade pay of Rs. 4200. To summarize, as he puts in para 14 of his rejoinder, the applicant wants to be paid a Grade Pay of Rs. 4600, if he is absorbed in the Crew Controller's job, which carries that pay. Otherwise, he may be absorbed in any other job suitable for him with a Grade Pay of Rs. 4200.

2. The respondents have denied the claim of the applicant stating that the initial order posting him as Chief Operating Superintendent was only a temporary arrangement and it was wrong to give him a higher Grade Pay. Therefore, there was nothing wrong in changing that order and giving him another job with a Grade pay not higher than what he was getting at the time of his de-categorization. They have repeated the arguments taken by respondent no 2 in his speaking order ( Annecure-10 ) and alleged that the order follows the relevant Rules of the Railway Board relating to absorption on Medical de-categorization. They have also argued that the request of the applicant for a particular post (Welfare Inspector) cannot be acceded to since it is a popular post and they do not think he is suitable for that (even though they have not denied that in some other Divisions, some loco pilot could have been absorbed to that post on medical de-categorization).

3. We have gone through the pleadings and have heard the counsels of both the parties. Prima facie, the concluding paragraph in the rejoinder of the applicant, asking for absorption in any suitable job carrying Grade pay or Rs 4200, or absorbing him as Crew Controller with Grade pay of Rs. 4600, appears to be very reasonable. A person cannot be expected to do a job with more onerous responsibilities (as evident from the stipulation requiring 75000 Km running experience and higher grade pay of Rs. 4600) and not be paid for it only because he is medically de- categorized from a job carrying lesser grade pay. If he is good enough to be absorbed in it, he should be paid the remuneration associated with the job. Despite

Applicant's clearly mentioning lack of authority with the respondent no 2 to reduce the grade pay associated with any job, the respondents have not quoted any law or rule showing the provisions under which he could do so.

4. We therefore allow the OA and grant the prayer of the applicant as clarified by him in the concluding para (para 14) of his rejoinder. The respondents will issue immediate orders absorbing him in any suitable post carrying a grade pay of Rs. 4200/- In case it is not done, and he is continued to work as Crew Controller, he would be paid the higher grade pay of Rs. 4600/- associated with that job. We also order that he should be paid the difference in pay (between Grade Pay Rs. 4600/- and Rs. 4200/- and consequential benefits if any) for the period for which he worked as a Crew Controller. No order as to costs.

**[ Dinesh Sharma ]  
Administrative Member  
Srk.**

**[Jayesh V. Bhairavia]  
Judicial Member**