

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00577/2015**

Reserved on: 14.05.2019

Pronounced on: 16.05.2019

C O R A M

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

Manoj Kumar Singh, Son of Late Surendra Prasad Singh, Guard (Mail), East Central Railway, Barauni District- Begusarai (Bihar).

.... Applicant

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

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali (Bihar).
3. The Chief Operating Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
4. The Divisional Railway Manager, East Central Railway, Sonpur, PO- Sonpur, District- Saran (Bihar).
5. The Senior Divisional Operating Manager, East Central Railway, Sonpur, PO- Sonpur, District- Saran (Bihar).
6. The Sr. Divisional Personnel Officer, East Central Railway, Sonpur, PO- Sonpur, District- Saran (Bihar).
7. The Senior Divisional Financial Manager, East Central Railway, Sonpur, PO- Sonpur, District- Saran (Bihar).

.... Respondents.

- By Advocate: - Mr. B.K. Choudhary
Mr. P.K. Verma

O R D E R

Per Dinesh Sharma, A.M:- The instant OA is against the order dated 23.01.2015 of Divisional Railway Manager (Personnel), Sonpur by which the pay of the applicant has been reduced w.e.f. 01.07.2006 without giving any show cause notice. The applicant has alleged that it is apparently not a final

decision and this decision amounts to causing him “double jeopardy” since he has neither got the benefit of promotion from the post of Goods Guard to Senior Goods Guard and now the benefit of promotion from Senior Goods Guard to Senior Passenger Guard is also being taken away from him. The applicant has also alleged that the decision to promote him as Sr. Passenger Guard was taken before 01.01.2006. The applicant had appeared in the selection test for promotion to the post of Passenger Guard scheduled to be held on 22.04.2005 and was finally selected vide result dated 20.09.2005. Therefore, just because of his actual promotion occurred by order dated 04.06.2006 (after the cut-off date of 01.06.2006) this should not disentitle him from the benefit of promotional increment that became due as per the Railway Board order dated 06.04.2004.

2. The respondents have denied the claim of the applicant. According to them, after issuance of Railway Board RBE No. 54/2014, the criteria of pay fixation on promotion of running staff including guard category has been revised w.e.f. 01.01.2006. According to these instructions, the benefit of option under Rule-1313 (FR 22) (I) (a) (1) R-II, on promotion from Sr. Goods Guard to Sr. Passenger Guard in the same Grade Pay, has been withdrawn w.e.f. 01.01.2006. It means that no promotional increment will be admissible on promotion to Sr. Passenger Guard from Sr. Goods Guard. In the light of this circular, pay of all such staff, including the applicant, who had been given the benefit of promotional increment, has been revised w.e.f. 01.01.2006. This reduction of pay is as per the extant rule. The RBE 54/2014 is not a tentative decision and it was by way of a

clarification for adopting uniform guideline in this matter across all Railways. Since this rule is of uniform application for all such promotions w.e.f. 01.01.2006, applicant's objections to this reduction were not allowed and he was informed about the correct position.

3. We have gone through the pleadings and heard the learned counsels of both the parties. RBE No. 54/2014 was issued to clarify fixation of pay under Rule 13 in case of running staff. In the light of the recommendations of 6th CPC, very clear instructions were issued with respect to admissibility of promotional increment for promotion of Guards at various stages. This circular clarifies that promotional increments would be admissible for promotion from Assistant Guard to Senior Assistant Guard, Senior Assistant Guard to Goods Guard, Goods Guard to Sr. Goods Guard and from Sr. Passenger Guard to Mail/Express Guard. However, these would not be admissible for promotion from Sr. Goods Guard (non-functional) to Sr. Passenger Guard. Since these rules have been uniformly applied to all the staff, the applicant cannot claim any exemption from the application of these rules only on ground that the examination for his promotion was held before the cut-off date of application of these rules. The applicant has also not produced anything to prove "double jeopardy" of the type mentioned by him. We also find it strange that neither the applicant nor the respondents Railways have mentioned anything about whether any recovery was made following this reduction in pay. The counsel for the Railways, on a query made by us, made it clear that there was no recovery made pursuant to this order. The applicant has not asked for any

stay on recovery or refund of excess salary paid which would certainly have happened if his pay was reduced from a back date. Hence, it will be reasonable to presume that no recovery has been made on this account and the order, if at all, has only prospective effect on the emoluments. In these circumstances, we do not see any reason to accept the prayer of the applicant to quash an order which apparently has universal application on similarly situated persons. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member