

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00261/13
With
MA/050/00116/18

Reserved on: 03.01.2019
Pronounced on: 18.01.2019

C O R A M

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

1. Meeta Mukherjee, wife of Shri B.N.Bose, resident of Railway Qr. No. 601/AB, East Colony, Jublee Road P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
2. Shely Varghese, wife of Shri Aloke Kumar Bose, resident of Mahamaya Kutir, Munger Road, P.O.& P.S.-Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
3. Sushila Tripathy, wife of Shri A.K. Tripathy, resident of Railway Qr. No. 9/456, East Colony, Golf Road, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
4. Usha Kumari, wife of Shri Shailendra Kumar, resident of Railway Qr. No. 440/CD, Eastern Railway, Main Compound, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Matron at Eastern Railway, Main Hospital, Jamalpur.
5. Edan Guria, wife of Shri Raj Kumar Paswan, resident of Railway Qr. No. 147/AB, East Colony, Eastern Railway Main Hospital Compound, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
6. Asha Kumari II, wife of Shri Mahesh Prasad, resident of Railway Qr. No. 448/CD, East Colony, Eastern Railway Main Hospital Compound, Jublee Road, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
7. Asha Kumari I, wife of Shri Aman Rahi, resident of Railway Qr. No. 141/CD, East Colony, Eastern Railway Main Hospital Compound, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
8. Basanti Kumari, wife of Shri Umesh Prasad Singh, resident of Railway Qr. No. 146/ABC, East Colony, Eastern Railway Main Hospital Compound, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
9. Kumari Gita Sinha, wife of Shri Pramod Kumar Sinha, resident of Railway Qr. No. 782/A, Eastern Railway Main Hospital Compound, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.
10. Faster Murmu, wife of Shri Samuel Hembrom, resident of Railway Qr. No. 148/CD, Main Hospital Compound, P.O.& P.S.- Jamalpur, District-Munger,

presently posted as Chief Matron at Eastern Railway, Main Hospital, Jamalpur.

11. Kumari Renu Bala, wife of Shri Dharamveer Kumar, resident of Railway Qr. No. 602/CD, Jubilee Road, Jamalpur, P.O.& P.S.-Jamalpur, District- Munger, presently posted as Chief Matron at Eastern Railway Main Hospital, Jamalpur.
12. Prabha Kumari, wife of Shri Braj Bhushan Singh, resident of Railway Qr. No. 448/AB, Jubilee Road, Jamalpur, P.O.& P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
13. Rita Kumari, wife of Shri Rama Grain, resident of Railway Qr. No. 638/AB, Jubilee Road, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
14. Aparajeeta Mall, wife of Shri Manas Kumar Chakraborty, resident of Railway Qr. No. 782/B, Eastern Railway Main Hospital Compound, Jamalpur, P.O.& P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway Main Hospital, Jamalpur.
15. Renu Kumari, wife of Shri Nakul Prasad Singh, resident of Railway Qr. No. 623/DFF, Golf Road, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
16. Punita Kumari, wife of Shri Ajay Kumar, resident of Railway Qr. No. 441/AB, Eastern Railway Main Hospital Compound, East Colony, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
17. Bandana Kumari, wife of Shri Rabindra Kumar, resident of Railway Qr. No. 782/D, Eastern Railway Main Hospital Compound, P.O. & P.S.- Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway Main Hospital, Jamalpur.
18. Usha Kumari II, wife of Shri Kapil Deo Paswan, resident of Railway Qr. No. 1/CD, East Colony, Jubilee Road, Jamalpur, P.O. & P.S.- Jamalpur, District- Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
19. Kanchan Kumari, wife of Shri Diwakar Prasad Mandal, resident of Village and Post-Itawa, P.O. & P.S.- Dharahra, District-Munger, presently posted as Chief Matron at Eastern Railway Main Hospital, Jamalpur.
20. Manjusha Sinha, wife of Shri Gupteswar Prasad, resident of Railway Qr. No. 144/AB, Eastern Railway Main Hospital Compound, East Colony, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
21. Lalita Kumari, wife of Shri Bijay Prakash, resident of Mohalla-Naya Gaon, near Durgastha, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Chief Matron at Eastern Railway Main Hospital, Jamalpur.
22. Archana Kumari, wife of Shri Sukhdeo Prasad, resident of Railway Qr. No. 728/D, Golf Road, East Colony, Jamalpur, P.O. & P.S.- Jamalpur, District- Munger, presently posted as Chief Matron at Eastern Railway Main Hospital, Jamalpur.
23. Bibha Kumari, wife of Shri Ravindra Kumar Roy, resident of Railway Qr. No. 144/EF, Eastern Railway Main Hospital Compound, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.

24. Sunita Kumari, wife of Shri Niraj Kumar Jha, resident of Railway Qr. No. 147/EF, Eastern Railway Main Hospital Compound, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
25. Manju Srivastava, wife of Shri Uma Kant Srivastava, resident of Railway Qr. No. 602/AB, East Colony, Jubilee Road, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
26. Anita Kumari, wife of Shri Lalan Kumar, resident of Railway Qr. No. 652/AB, Easter Railway Main Hospital Compound, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing sister at Eastern Railway Main Hospital, Jamalpur.
27. Anju Kumari, wife of Shri Raghwendra Sharma, resident of Railway Qr. No. 651/AB, Eastern Railway Main Hospital Compound, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.
28. Ranju Kumari, wife of Shri Samir Agarwal, resident of Railway Qr. No. 43/CD, East Colony, Club Road, Jamalpur, P.O. & P.S.-Jamalpur, District-Munger, presently posted as Nursing Sister at Eastern Railway Main Hospital, Jamalpur.

..... Applicants.

By Advocate: Shri Prashant Sinha

-Versus-

1. The Union of India through the Secretary, Railway Board, Railway Bhawan, Raisina Road, New Delhi.
2. Director, Pay Commission-II, Railway Board, Railway Bhawan, Raisina Road, New Delhi.
3. Section Officer, Pay Commission-VI, Railway Board, Railway Bhawan, Raisina Road, New Delhi.
4. General Manager, Eastern Railway, Fairly place, Kolkata.
5. Chief Personnel Officer, Eastern Railway, Fairly place, Kolkata.
6. Deputy Chief Personnel Officer (NG), Eastern Railway, Fairly place, Kolkata.
7. Chief Works Manager, Easter Railway Workshop, Jamalpur.
8. Workshop Personnel Officer, Eastern Railway Workshop, Jamalpur.
9. Assistant Personnel Officer, Eastern Railway Workshop, Jamalpur.
10. Chief Medical Superintendent, Eastern Railway, Jamalpur.
11. Additional Chief Medical Superintendent, Eastern Railway, Jamalpur.
12. Chief Matron In-charge, Eastern Railway Main Hospital, Jamalpur.

..... Respondents.

- By Advocate(s) :- Shri Mukundjee with Shri S.K.Ravi, Id. SC

ORDER

Per Dinesh Sharma, A.M.:- This case was disposed of by an order of this Tribunal dated 09.09.2016 by which this Tribunal has rejected the

prayer of the applicants to get their pay fixed in terms of Section II of the First Schedule of the RS(RP) Rules, 2008. However, it was allowed that wherever there was an anomaly this could be removed by stepping up the pay. The respondents were directed to review the case of those applicants in whose case there was an anomaly and step up their pay at least to the level of Smt. Anibha Sinha whose case was cited by the applicants in their OA.

2. This decision was challenged by the applicants in the High Court of Patna through CWJC No. 18758/2016 and CWJC 19232/2016. The relevant portion of this judgment is extracted below: -

“ A detailed argument has been made on behalf of the counsel for the petitioners from which it emerges that while rendering assistance to the Tribunal all the notifications issued by the railways from time to time was not brought before the Tribunal, therefore, only on the pleadings and assistance, the conclusion has been reached by the Tribunal.

This Court is not willing to take into consideration new and additional materials even if they are official notifications for the reason that we are sitting in the writ jurisdiction to exercise power of judicial review of decision of the Tribunal and not strictly in appeal.

It will be unfair, therefore, to declare the order of the Tribunal to be bad in law on materials and the pleadings which the Tribunal was deprived of during the course of adjudication.

In view of the above, the maximum which this Court is willing to do, is to remand the matter back to the Tribunal for a fresh consideration and if that be so the order dated 09.09.2016 passed in OA No. 261 of 2013 has to go and the same would be required to be considered.

Both the writ applications stand disposed off with above direction upon the Tribunal that they will give a fresh opportunity to the petitioners to bring all the circulars and the notifications which have significance to the prayer made and after hearing the parties the decision will be rendered. The Court would expect that an early adjudication would be made.”

Following this, opportunity was given to the parties to produce whatever documents they wanted to file. The applicants have filed an

MA/050/00116/18 reiterating their earlier claim in their OA and enclosing the following documents as annexures:-

1. Photocopy of the relevant portion of the 6th CPC (Annexure-2)
2. Photocopy of RBE No. 103/2008 dated 04.09.2008 (Annexure-3)
3. Photocopy of RBE No. 108/2008 dated 11.09.2008 (Annexure-4)
4. Photocopy of RBE No. 124/2008 dated 22.09.2008 (Annexure-5)

3. The case was finally heard on 03.01.2019 where the advocate for the applicants reiterated the submissions made in the OA and the advocate for the Railways reconfirmed their averments made in their written statement. The advocate for the respondents also argued that all these documents which are now being submitted were already brought to the notice of this Tribunal and the earlier decision of this Tribunal were made after taking all these circulars in consideration.

4. After going through the pleadings and hearing the arguments we find that all these documents which have now being produced along with the supplementary affidavit were there on record when this matter was considered by this Tribunal earlier. In fact, the ones listed as item no. 2 to 4 in para 2 above were enclosed as annexures 6 to 8 in the OA itself; the material provided under item no. 1 above was given at Annexure-5 (in the form of photocopy of relevant portions of Nabhi's Sixth Pay Commission Acceptance Orders). The detailed and reasoned order passed by this Tribunal had, in fact, considered all of these and came to conclusion about correcting the anomaly by way of stepping up of pay. Since the Hon'ble High Court had remitted the matter back to this Tribunal only because the applicants wanted to bring new and additional material on record, and since the applicants have not brought any new or additional material except for

what was already produced before this Tribunal when it adjudicated the OA on 03.01.2019, we are constrained not to sit in judgment over our own findings based on the same set of records.

5. We, therefore, without repeating the arguments and reasoning mention in the earlier judgment of this Tribunal dated 09.09.2016, in the absence of any new documents or facts brought to our notice following the judgment of the Hon'ble High Court in CWJC No. 18758/2016 and CWJC No. 19232/2016, reproduce our conclusion reached earlier in this case as below:-

“ In conclusion, the prayer of the applicants to get their pay fixed in terms of Section II of the First Schedule of the RS(RP Rules, 2008, which is meant for entry pay for direct recruits appointed on or after 01.01.2006, is rejected. However, wherever there is anomaly as explained in the foregoing paragraphs, this has to be removed in terms of the Rules by stepping up of the pay. Accordingly, Annexure A/1 is quashed and set aside. Respondents are directed to review the cases of those applicants in whose case there is an anomaly as mentioned above and step up their pay at least to the level of Smt. Anibha Sinha from the day of her joining at Jamalpur within three months of receipt of a copy of this order. The OA is thus partly allowed in terms of these observations. No order as to costs.”

6. OA and MA/050/00116/2018 stands disposed of accordingly.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member