

**Central Administrative Tribunal  
Principal Bench**

**OA No.987/2017**

New Delhi, this the 19<sup>th</sup> day of March, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Vipin Jha,  
Aged 63 years,  
SA/o Late Shri Nagendra Nath Jha,  
R/o B-1/331, Janakpuri,  
New Delhi-110058  
Retired as Additional General Manager,  
Northeast Frontier Railway.

...Applicant

(In person )

**Versus**

1. Union of India,  
Through Secretary,  
Railway Board,  
Ministry of Railways,  
New Delhi-110001.

...Respondents

(By advocate : Shri Om Prakash with Ms. Sudipti)

**ORDER (ORAL)**

**Justice L. Narasimha Reddy, Chairman :-**

The applicant is an officer of the Northeast Frontier Railway. He was empanelled for the post of General Manager on All India level for the year 2011-2012. However, by the time his turn for appointment as General Manager came, he did not have the residual service of

two years. Therefore, he was superseded by his juniors and ultimately, he retired from service on 30.09.2013.

2. The applicant contends that he is entitled to be extended the pay scale of Rs.75000-80000/-, attached to the post of General Manager, w.e.f. 15.06.2012, the date on which his junior Shri Alok Johri was appointed as General Manager.

3. The representation of the applicant was rejected on 27.09.2016, placing reliance upon the Resolution dated 16.08.2016. It was mentioned that the facility of extending the scale attached to the post of General Manager, to empanelled but superseded officers is available only from the year 2017-2018 onwards. The applicant feels aggrieved by the rejection of his claim and filed this OA claiming the scale of pay of Rs.75000-80000/- w.e.f. 15.06.2012, with all consequential benefits.

4. He contends that the decision to extend such a benefit was taken by the Union of India, way back on 22.07.2011, and the mere fact that it was adopted by the Railway Board, at a later point of time, does not make any difference.

5. The respondents filed counter affidavit opposing the OA. It is stated that the OA is not maintainable on the ground of limitation and on account of the fact that the relevant provision of the policy was not challenged. Other grounds were also pleaded.

6. We heard the applicant, who argued the case in person and Shri Om Prakash, learned counsel for respondents.

7. It is a matter of record that the applicant was empanelled in the year 2011-2012 in the context of appointment to the post of General Manager. One of the conditions for the appointment of an empanelled officer is that he must have atleast two years of left over service, by the time he was appointed as General Manager. Since the applicant did not have that much of service by the time his turn came, he was superseded. He ultimately, retired from service on 30.09.2013.

8. The question as to whether an officer, who is empanelled for the post of General Manager but was superseded for want of adequate residual service, is entitled to be extended the pay scale attached to the post of General Manager, was examined by the Railway Board and the matter was referred to the Ministry of Finance.

Through an office order dated 22.07.2009, the Ministry of Finance accorded the approval for the proposal. It reads as under :-

“Government of India  
Ministry of Finance  
Department of Expenditure  
(Implementation Cell)

Ministry of Railways (Railway Board) may please refer to their Office Memorandum dated 14<sup>th</sup> July, 2009 regarding a proposal to grant the pay scale of General Manager, Railways (Rs.75000-80000) as personal to officers empanelled for the posts of GMs/equivalent who are superseded for appointment as General Managers for want of 2 years residual service on the date of occurrence of vacancy in their turn.

2. The proposal of the administrative ministry has been considered. This Department agrees to the proposal of Ministry of Railways to grant the pay scale of General Manager, Railways (Rs.75500-80000) as personal to officers empanelled for the posts of GMs/equivalent who are superseded for appointment as General Managers for want of 2 years residual service on the date of occurrence of vacancy in their turn.

3. This issues with the approval of Finance Minister.

(ALOK SAXENA)  
DIRECTOR (IC)”

9. From this, it is clear that the officers who were empanelled as General Manager but was superseded for want of two years residual service are entitled for the benefit from the date of occurrence of the vacancy in their turn.

10. The respondents contend that the policy in this behalf was framed only through proceedings dated 16.08.2016, and it was made effective for the panel of the years 2017-2018 onwards. Their plea is that the letter from the Ministry of Finance is at best, a step in the decision making process and it does not confer any rights upon the applicant.

11. We are of the view that the letter dated 22.07.2009 cannot be reduced to the one, which does not give rise to any legal consequences. The proposal did emanate from the Railways and the approval was accorded by the Ministry.

12. The railways framed the policy in the year 2016 and made it operative from the panel year 2017-2018 onwards. Obviously, because he was not well advised, the applicant did not choose to challenge the policy, insofar as it is operative from the panel years of 2017-2018.

13. In the totality of the circumstances, we are of the view that the applicant can be extended the benefits prospectively, without standing on technicalities, at this stage. When the same is indicated to the applicant, he also did not object to the relief to be granted, in that manner.

14. We, therefore, allow the OA in part and direct that the applicant shall be entitled to be extended the benefit of pay scale of Rs.75000-80000 prospectively, from today, in the context of the re-fixation of his pension.

There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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