

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

Original Application No.021/0364/2018

Date of C.A.V : 06.08.2018

Date of Order : 06.02.2019

Between :

M.Gopal Naik, S/o M.H.Naik, aged 59 years,
Occ : Senior Systems Manager (Group'A'),
O/o The Senior Electronic Data Processing Manager (IT Centre),
South Central Railway, Lekha Bhavan,
Secunderabad – 500 071. ... Applicant.

And

1. Union of India, Rep. by
The Chairman, Railway Board,
Ministry of Railways, Rail Bhavan,
New Delhi – 110 011.
2. The Secretary,
Railway Board, Rail Bhavan,
New Delhi – 110 011.
3. The Financial Commissioner,
Railway Board, Rail Bhavan,
New Delhi – 110 011.
4. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad – 500 071.
5. The Principal Financial Adviser,
South Central Railway,
Rail Nilayam,
Secunderabad – 500 071. ... Respondents.

Counsel for the Applicant ... Mr.K.R.K.V.Prasad, Advocate
Counsel for the Respondents ... Mr.S.M.Patnaik, S.C.for Rlys.

CORAM:

Hon'ble Mr.Justice R.Kantha Rao ... **Member (Judl.)**
Hon'ble Mrs.Naini Jayaseelan ... **Member (Admn.)**

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

The OA is filed by the applicant to declare the inaction of the respondents in the matter of implementation of cadre restructuring in respect of Gazetted cadre of Information Technology of Indian Railways as illegal, arbitrary, discriminatory and direct the 1st respondent to issue orders of restructuring of Junior Administrative Grade Officers working in the IT Cadre by placing 15% of the JA Grade officers of the sanctioned posts in Selection Grade in PB-4 with GP Rs.8700/- (6th CPC) in terms of the recommendation of the Committee of Executive Directors given in pursuance of the order dated 02.02.2012 issued by the 1st respondent Ministry and place the applicant in Selection Grade in PB-4 with GP Rs.8700/- w.e.f. 01.04.2017 and grant all other consequential benefits.

2. Briefly stated the facts as per the averments of the OA are that the applicant is working as Junior Administrative Grade (JA Grade) Officer in South Central Railway and presently in Level-12 (7th CPC), equivalent to PB-3 with Grade Pay of Rs.7600/- in 6th CPC. The 1st respondent Railway Board issued orders of restructuring / re-organization of staff pattern of Railway Board Computer cadre vide orders dated 14.07.2011. In the said order it has been clearly mentioned that necessary action for undertaking the similar exercises for cadre restructuring of the IT cadre of the Zonal Railways shall be initiated by the C&IS Directorate in

consultation with the other Directorates of Board's Office. In pursuance of the said decision, the 1st respondent Railway Board vide order dated 02.02.2012 constituted a Committee of Executive Directors to submit a report to review the existing Cadre restructuring of EDP Centres on Zonal Railways, Production Units,etc. The Committee inter alia recommended the reorganized cadre structure which includes placement of 15% of the Senior EDPMs from IT cadre in Selection Grade as far as JA Grade restructuring of Group 'A' service is concerned and also cadre restructuring of 67:33 for Junior Engineer / IT and Senior Engineer / IT w.e.f. 01.04.2017 in Group 'C' cadre. The grievance of the applicant is that in respect of the other officials the Committee recommended for cadre restructuring, but the department delayed the implementation of the same in respect of Group 'A' (Gazetted) Officers working in JA Grade who have no promotion opportunity further and retire in the JA Grade itself. It is submitted that the applicant who is senior most JA Grade Officer was going to retire on 31.08.2018. It is under these circumstances the applicant filed the present OA for the aforementioned reliefs.

3 (i) The respondents strongly opposed the relief prayed for in the OA by contending as follows :

As the Gazetted IT Cadre required the approval of the DOP&T / Ministry of Finance, it was decided to implement the restructuring of Group 'C' categories of Senior Engineer (IT) and Junior Engineer (IT) in the percentage of 67:33 respectively. Accordingly the same was implemented vide letter dated 18.04.2017. However, while restructuring exercise of Gazetted IT cadre was

under process, number of Railways represented to Board, regarding technical / administrative difficulties being faced in implementing the restructuring of Non-Gazetted IT cadre. In Eastern Railway some staff of IT Cadre have filed OA in the Kolkata Bench of the Central Administrative Tribunal against the restructuring and the same is pending adjudication. It is contended that the entire exercise of restructuring of IT cadre including Gazetted cadre is being reviewed / revised with the aim to strengthen the IT cadre to meet the requirements keeping in view the new IT applications being developed and implemented as per the initiative taken by the Hon'ble Minister for Railways.

3 (ii) Nextly it is contended that even if the restructuring has been done with the recommendation of EDs committee and 15% of the JA Grade posts were placed in Selection Grade, the applicant is not eligible for promotion as he has not completed 13 years of Group 'A' service which is a pre-requisite for an officer to be placed in Selection Grade. According to the respondents as per extant recruitment rules, a Group 'A' Officer will be eligible for promotion to Selection Grade when he/she enters 14th year of service (extract of the said rule is enclosed as Annexure-R-1). The applicant will be entering 14th year of Group 'A' service in 2020-2021, as he was appointed to Group 'A' service w.e.f. 01.02.2008 against the panel of 2006-2007.

3 (iii) Raising the above contentions, the respondents sought to dismiss the OA.

4. We have heard Mr.K.R.K.V.Prasad, learned counsel for the applicant and Mr.S.M.Patnaik, learned standing counsel for the respondents.

5. The crucial question in this OA is as to whether the prayer in the OA can be granted by this Tribunal having recourse to its powers and jurisdiction vested under the Administrative Tribunals Act.

6. Merely because the Committee submitted a report it is not obligatory on the part of the 1st respondent to accept the report of the Committee in toto. The respondent while implementing the report of the Committee will take into consideration the various issues involved in the implementation of the Committee's report. It is mentioned by the respondents in the counter that while restructuring was under process number of representations were received from Railways by the Board, regarding technical/administrative difficulties being faced in implementing restructuring of Non-Gazetted IT cadre. Further in Eastern Railway some staff of IT Cadre have filed OA before the Kolkata Bench of the Tribunal against the restructuring. It is further submitted by the respondents that for the purpose of accepting the restructuring, the approval of DOP&T was under process and therefore the restructuring of Gazetted cadre was still pending. As rightly contended by the respondents the decision to implement the restructuring of Gazetted IT cadre in Zonal Railways, PSUs, etc based on the recommendations of the Executive Committee is a policy decision which has to be taken in

consultation with Ministry of Railways, Department of Personnel and Training, Government of India.

7. In our view the Tribunal is not vested with the jurisdiction to pass an order of a mandatory nature directing the respondents to take a policy decision in a particular way. In our view it is beyond the purview of the jurisdiction of the Tribunal. Therefore, the applicant is not entitled for the relief prayed for by him in the OA.

8. Accordingly, the OA is dismissed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

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