



**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

No. O.A.No.350/00372/2016

Date of order : 18.8.16

Present : Hon'ble Mrs. Urmita Dutta Sen, Judicial Member

1. Alok Nandi
2. Sib Sankar Bandyopadhyay
3. Deb Kumar Atta
4. Monohar Dolui

.....Applicants

VS.

1. Union of India, service through
the General Manager, E. Railway,
17, Netaji Subhas Road,
Kolkata : 700001
2. The Chief Personnel Officer,
Eastern Railway,
17, Netaji Subhas Road,
Kolkata : 700001
3. The Chief Works Manager,
Carriage and Wagon Workshop,
Eastern Railway, Liluah:711204
4. The Workshop Personnel Officer,
Carriage and Wagon Workshop,
Eastern Railway, Liluah: 711204

.....Respondents

For the applicants : Mr. D.K. Mukhopadhyay, counsel
For the respondents : Mr. A.K. Banerjee, counsel

ORDER

This O.A. has been filed by four applicants under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "a) An order granting leave to the applicants under Rule4(5)(a) of the Central Administrative Tribunal(Procedure) Rules, 1987 to move this application jointly;
- b) An order/direction be issued directing the respondent authorities to issue 1st Class Pass in favour of the Applicants as they

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are entitled for the same as per Railway Board's instructions, as has been granted to the similarly circumstanced employees;

c) For any other or further order or orders as to this Hon'ble Tribunal may deem fit and proper."

2. Brief facts of the case as stated in the O.A. are that the applicants were promoted as Technicians Gr.I in November-December, 2010 in the scale of Rs.4500-7000/-(Vth CPC) i.e. in Pay Band of Rs.5200-20200/- with Grade Pay of Rs.2800/- (VIth CPC). Their rate of pay was fixed at Rs.13760/-. They applied for 1st Class Privilege Pass as per their entitlement as the same was being issued to other similarly circumstanced employees, but they were not granted the same. Being aggrieved, the applicants had filed an application before this Tribunal being O.A.No.350/01421/2014, which was disposed of on 02.06.2015(Annexure A-3) with a direction to the respondents to dispose of the representation of the applicants by a reasoned order and to grant the relief if they were found entitled for the same. The respondents were also directed to communicate the decision to the applicants in case their representations had already been decided. The Tribunal had not expressed any opinion on the merit of the matter and all the points were kept open for consideration by the respondents. In pursuance of the said order, the respondent authorities issued a speaking order dated 16.10.2015(Annexure A-4) denying the entitlement of the applicants for 1st Class Privilege Pass. Being aggrieved by the said order, the applicants have approached this Tribunal by filing the present O.A.

3. The respondents have filed a written reply denying the claim of the applicants. As per the respondents, the applicants were initially appointed as Group 'D' staff and posted in different shop units in the Carriage and Wagon Workshop, Eastern Railway, Liluah, where separate seniority was

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being maintained shop wise and accordingly they were promoted to Khalasi Helper and Technician-III on different dates as per their shop wise seniority. Some of the staff were promoted to the post of Technician-I and Technician-II during the period from November, 2010 to December, 2010 and all the staff were borne in different seniority of the different shops as per the shop units. Accordingly the applicants were promoted to the post of Tech-II to Tech-I during the said period from October 2010 to December, 2010. According to the respondents, the criteria for adjudging the eligibility for 1st Class Railway Pass should be the pay of Rs.5375/- in the status of Technician-I in the scale of Rs.4500-7000 as per Vth CPC and it has no relation with the VIth CPC pay for adjudging the eligibility criteria for entitlement to 1st Class Pass. Entitlement to 1st Class Pass has arisen after actual drawal of higher pay as Technician-I on pay of Rs.5375/- in scale of Rs.4500-7000/- as per Vth CPC for which cut off date was up to 05.01.2011(as per Vth CPC). The applicants got promotion to the post of Technician-I in December 2010 and actually drew their payment in higher pay for December, 2010 after 06.01.2011. Therefore, they could not be considered for entitlement to 1st Class Pass as per Vth CPC. The respondents have further submitted that the criteria for adjudging for entitlement of 1st Class Pass as per Vth CPC and VIth CPC had been followed correctly in terms of the Railway Board's instructions incorporated in CPO/Kolkata's Sl. No.203/1999 and GM(Pass)/KKK's Sl.No.383/2011 respectively and the applicants are not entitled to 1st Class Pass as per said criteria, as such, the O.A. is liable to be dismissed.

4. Heard Id. counsel for both sides and perused the materials available on records.

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5. The respondents were directed to bring the Service Book of the applicants vide order dated 08.08.2016. Accordingly they have produced the Service Records of the applicants.

6.(a) It is observed that the respondents rejected the claim of the applicants for 1st Class Privilege Pass on the ground that though they were promoted to the post of Technician Gr.I w.e.f. 01.12.2010 but they received their salary after 06.01.2011, therefore, they could not be given 1st Class Privilege Pass as per the Vth Pay Commission recommendation.

(b) From perusal of the Service Records of the applicants, it transpires that the applicant No.1 was granted 3rd MACP in the Grade Pay of Rs.2800/- from 01.09.2008(wrongly mentioned in the promotion order dated 01.12.2010 as 01.08.2009) vide order dated 19.07.2010. Similarly the Applicant No.2, Applicant No.3 and Applicant No.4 were granted MACP on 01.07.2010, 14.09.2010 and 01.07.2010.

(c) The promotion order dated 01.12.2010 is being extracted hereunder for ready reference:-

"EASTERN RAILWAY

No.LE/94/2/A/2010

OFFICE ORDER

Dated : Liluah, the 1st December 2010

On being found suitable in the Screening and Trade Test for Technician Gr.I and Technician Gr.II category respectively, the undermentioned staff of 'A' Shop/LLH are promoted to the post provisionally with immediate as indicated against each to fill up the existing vacancies.

The staff may exercise option for fixation of pay on promotion from the date of next increment in respect of lower grade as per CPO/KKK's Sl. Circular No.114/08 within one month from the date of issue of this office order.

This has the approval of the Competent Authority.

Sl. No.	Name/Sri	T.No.Comm:	Existing	On promotion	Remarks
			Design.Pay(Rs.)	Scale(RP) Design:Pay(Rs) Scale(Rs.)	
GROUP 'A'					

ML.

01. A. Nandy
A-516

UR Tech.II 10960+2800/- 5200 Tech.I 10960+2800/- 5200 Granted MACP
B. Smith Rs.13760/- 20200 B. Smith Rs.13760/- 20200/- w.e.f.01.08.09
Now regularized
as Tech:I

GROUP 'B'

01.S.K. Gkoswami UR Tech.III 8350+2000 -do- Tech:II 8350+2400/- -do- Wkg under
AC/Fin-LLH

Sd/-1.12.10
Asst. Personnel Officer
E. Rly., Liluah"

(d) From the above, it would be clear that the applicants were granted financial benefit under MACP in the post of Technician-II in the Grade Pay of Rs.2800/- w.e.f. 01.08.2009. However, they were regularized by way of promotion as Technician Gr.I vide order dated 01.12.2010. Therefore, they were already entitled for the Grade Pay of Rs.2800/- from 2008 onwards and were drawing Grade Pay of Rs.2800/- from August,2010 onwards.

(e) The applicants have again relied on Railway Board's Circular i.e. RBE No.3/2011 dated 07.01.2011. The contention of the respondents regarding receiving of salary in the Grade Pay of Rs.2800/- after 06.01.2011 has no relevancy with the entitlement of the applicants for 1st Class Pass as according to Para 4 of the RBE No.3/2011 dated 07.01.2011, they were entitled for 1st Class Privilege Pass from 2009 onwards and they were entitled to draw 1st Class Pass irrespective of their eligibility in terms of the said circular.

(f) In view of the above submission, let me understand the contention of the applicants vis-à-vis their promotion order and the Railway Board's Circular i.e. RBE.No.3/2011 dated 07.01.2011, which reads as under:-

"SOUTH EASTERN RAILWAY

Estt. Srl.No.001/2011

RBE No.03/2011

Me

No.P/GM.CPO/Pass/Rules

Dated: 07.01.2011

Sub : Revised pay limits for entitlement of Passes/PTOs on the basis of Pay drawn in the Railway Services (Revised Pay) Rules, 2008.

Railway Board's letter No.E(W)2008/PS 5-1/38 dated 06.01.2011 (RBE No.03/2011) is as under:-

Consequent upon revision of Pay Scales on the basis of decision of the Government on the recommendations of the 6th Central Pay Commission, the question of revision of existing entitlements to Passes/PTOs under the Railway Servants(Pass) Rules, 1986(Second Edition, 1993) has been under consideration of this Ministry.

2: The matter has been examined and the President is pleased to decide that the entitlements of Passes/PTOs in respect of railway servants drawing pay in the Railway Services(Revised Pay) Rules, 2008 shall be as under:-

S. No.	Category	Type of Privelege Pass & Privilege Ticket Order	Type of Duty Pass
1.	Group 'A' & Group 'B' (Gazetted)	1 st Class 'A' Pass	1 st Class 'A' Pass
2.	Non-Gazetted employees		
(i)	In Grade Pay Rs.4200/- & above	1 st Class Pass	1 st Class Pass
(ii)	In Grade Pay Rs.2800/-	IInd Class 'A' Pass*	IInd Class 'A' Pass*
(iii)	In Grade Pay Rs.1,900/- & above but below Grade Pay Rs.2800/-	One IInd Class 'A' Pass* in a year, remaining passes and PTOs of Second/Sleeper Class	IInd Class 'A' Pass*
(iv)	Employees in Grade Pay Rs.1800/-	One IInd Class 'A' Pass* in a year, remaining passes & PTOs of Second/Sleeper Class	Second/Sleeper Class

Note : In terms of the extant instructions, the holder of IInd Class 'A' Pass shall be entitled to travel by AC-3 tier class in trains other than Rajdhani/Shatabdi/Duronto Exp. Trains. IInd Class 'A' Pass is of yellow colour.

3. In all other respects, the provisions of the Railway Servants (Pass) Rules, (Second Edition, 1993) will apply.

4. The Railway employees who are already entitled to 1st Class Passes, shall continue to draw 1st Class Passes, irrespective of their eligibility in terms of these orders.

5. Necessary amendment to the Railway Servants(Pass) Rules, 1986(Second Edition, 1993) shall follow.

6. This issues with the concurrence of the Finance Directorate of the Ministry of Railways."

(g) From the perusal of the above circular, it is noted that the Railway employees, who were already entitled to 1st Class Passes prior to issuance of this circular would be eligible to continue to draw 1st Class Pass

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irrespective of their eligibility in terms of this order. Moreover, the applicants were granted MACP w.e.f. 01.09.2008 in the pay scale of Rs.5200-20200 and their pay was fixed at Rs.10960+2800(G.P.)=Rs.13760/- vide order dated 19.07.2010 and they were subsequently promoted to the same pay and Grade Pay by regular promotion. Therefore, they were already getting the Grade Pay of Rs.2800/- prior to 07.01.2011 i.e from the month of August, 2010 and they are covered under the proviso 4 of the RBE No.3/2011 read with Estt. Sl.No.35/99. Further, in the said circular, there was no restriction with regard to post, rather the entitlement of Privilege Passes or Privilege Tickets were stipulated as per pay. In the instant case, the applicants were already granted the financial upgradation in the Grade Pay of Rs.2800/- vide order dated 19.07.2010.

(h) Moreover, the applicants relied on the Estt. Srl No.35/99 dated 15.02.1999(Annexure A-5), relevant portion of which reads as follows:-

"Estt. Srl. No.35/99

No.P/GM-CPO/Pass/Rule/Misc

Dated : 15.02.99

A copy of Rly Board's letter No.E(W)97/PS5-1/62 dt.01.02.99 with regard to revised pay limits for entitlement of Passes on the recommendations of the Vth Pay Commission is published herewith for information, guidance and necessary action.

Copy of Board's letter No.E(W)97/PS5-1/62 dt.1.2.99 addressed to GM's All Indian Rlys & Production(not legible).

Revised pay limits for entitlement of Passes.

Consequent to the revision of Pay Scales, on the basis of recommendations of the Vth Pay Commission, the question of revision of existing entitlements to passes has been under consideration of the Ministry of Railways(Railway Board).

2. It has now been decided with the sanction of the President, that the entitlements in the revised Scales of Pay (RS(RP) Rules, 1997 will be as under:-

Category

Class of Privilege Pass
& Privilege Ticket Order

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- | | |
|--|-------------|
| 1. Group 'A' & Group 'B' (Gazetted)
Non-Gazetted Group 'B' & Group
'C' employees | I Class 'A' |
|--|-------------|

a)

b) Appointed during the period from 1.8.69 to 31.03.87

- | | | |
|-----|---|-------------------|
| i) | Drawing pay of Rs.5375/- or
Above provided they are in a scale,
The maximum of which is
Rs.7000/- or above | I Class |
| ii) | Employees other than those
Covered in item(i) above | II/Sleeper Class" |

(i) Since the applicants were appointed prior to 31.03.1987, they were entitled for 1st Class Pass till 07.01.2011. Therefore, in my opinion, as the applicants were already in the Grade Pay of Rs.2800/- and were also appointed prior to 31.03.1987. Thus, as per Estt. Srl. No.35/99 as well as Clause 4 of RBE No.3/2011, they are entitled for 1st Class Privilege Pass. Therefore, the reasons for rejection of such benefit to the applicants by the respondents on the ground that their entitlement would be counted from actual date of receipt of salary after promotion has no relevancy because entitlement for such benefit is not with regard to the post but with regard to the Grade Pay of Rs.2800/- or pay of Rs.5375/-(prior to 06.01.2011), which the applicant No.1 had already got under MACP from 01.09.2008 vide order dated 19.07.2010 and other applicants i.e. Applicant No.2, Applicant No.3 and Applicant No.4 got on 01.07.2010, 14.09.2010 and 01.07.2010 respectively. Therefore, the respondents cannot deny their entitlement to

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1st Class Pass on the ground of receipt of their salary to the promoted post after 06.01.2011.

7. In view of the above, the respondents are directed to issue 1st Class Pass in favour of the applicants. Accordingly, the O.A. is allowed with above observations and direction with no order as to costs.

(Urmita Datta Sen)
Judicial Member

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