

23/8

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



OA. 350/1874/2015

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member

Shri Rabindra Nath Some, son of late Harendra Nath Some, aged about 65 years, worked as Progressan under CWM/JMP/Eastern Railway, Kolkata, residing at Santoshpur Government Colony (New Block), P.O. Santoshpur (M), Kolkata-700 142.

.....Applicant.

-versus-

1. The Union of India, through the General Manager, Eastern Railway, 17, N.S. Road, Fairly Place, Kolkata- 700 001.
2. The Chief Office Superintendent/Pass Section, Eastern Railway Workshop, Jamalpur, Bihar- 811214.

.....Respondents.

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Ms. C. Mukherjee, Counsel

Heard On: 13.08.2019.

Date of order: 23.8.19.

ORDER

Per Ms. Bidisha Banerjee, JM:

The applicant Shri Rabindra Nath Some, a retired railway employee has preferred this OA to seek the following relief:

"8(a) An order do issue directing the Respondents to release complementary passes in respect of his mother and unmarried sister as per Rules at early date."

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2. It is his contention that the post retirement complimentary passes that were allowed in favour of his widow mother and unmarried sister since his retirement, has been stopped.

3. In order to contend that his widow mother and unmarried sister enjoyed a right to such complimentary passes. Ld. Counsel for applicant would place the Railway Servant (Pass) Rules, 1986, as extracted hereunder with supplied emphasis, to the extant found relevant and germane to the lis,

"RAILWAY SERVANTS (PASS) RULES, 1986

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following Rules, regulating the issue of passes and Privilege Ticket Orders to Railway servants, for travel by trains namely:-

1. *Short Title, Commencement and Application: 1. These Rules may be called the Railway Servants (Pass) Rules, 1986.*
2. *They shall come into force on the date of their publication in the Official Gazette.*
3. *Except where specifically provided to the contrary they shall apply to all railway servants under the administrative control of the Ministry of Railways (Railway Board) but shall not apply to :-*
 - i. *an apprentice engaged under the Apprentices Act ;*
 - ii. *a person in the casual employment or employed on daily wages;*
 - iii. *any person under the administrative control of the Ministry of Railways who by a general or special order is, excluded from the facilities of Pass or a Privilege Ticket Order under these rules.*

2. Definitions : In these Rules, unless the context otherwise requires:-

(a) *'adopted child' means a child for whom there is satisfactory proof of adoption irrespective of the fact whether such adoption is permissible or not under the personal law governing the railway servant concerned.*

(b) *'attendant' means a person exclusively employed on salary in the personal service of a railway servant.*

© *'dependent relative' in relation to a railway servant, whose father is not alive, means:-*

- i. *mother including a divorced mother;*
- ii. *unmarried or widowed sister;"*

4. Ld. Counsel for applicant would further place reliance on Schedule IV under Rule 8(2) of pass rules which deals with Post-Retirement Complimentary Pass, which is extracted hereunder:

"SCHEDULE IV

[See Rule 8(2)]

POST- RETIREMENT COMPLIMENTARY PASS

Category	Number of passes Admissible in one year	Condition for issue of post-retirement complimentary pass	Other facilities
2	3	4	1
Group A&B			
(a) With railway Service Of 20 years or More but less Than 25 years.	2 sets	(i) Post-retirement complimentary passes are issued to railway servants for self, wife/husband and Children only subject to the same conditions as applicable to railway servants in service.	(i) A retired railway servants may be issued on his request one set of complimentary pass in the last month of the Current calendar year for journey commencing in the next year duly debiting such issue of complimentary pass in the next year's account. The validity will be for 3/4 months, as the case may be, from the date of issue.
(b) With minimum Of 25 years.	3		
Group C			
With railway Service of 20 years or more But less than 25 years	1 set	(ii) subject to the conditions stipulated in (iii) below, <u>a retired Railway Servant will be eligible to the same class of post-retirement complementary pass, As he was enjoying at The time of service.</u>	(ii) A retired railway servant if he so desires, can obtain his post retirement complimentary passes from an office of his choice authorised to Issue such passes irrespective of the Railway or office from where he had retired. The Railway thus opted by the retired railway Servant will be
With minimum Railway service Of 25 years	2 sets		

However, the full benefit of post retirement complimentary passes corresponding to the higher post as to their number and class may be given to those Railway employees- recorded in his service record and that railway will be supplied with all the Essential details Including specimen signature Of the retired railway servant, date of birth of his children and permanent residential address. The railway thus opted will prepare and maintain pass index cards of the retired railway servant."

Citing the aforesaid, ld. Counsel for applicant would submit that the applicant served against a Group "C" post and therefore in absence of any specific bar, or a provision posing a specific bar on enjoyment of complimentary pass by widow mother and unmarried sister and in view of the explicit provision that retired employee will be eligible to the same class of Post-retirement complimentary pass, as he enjoyed at the time of service, his widow mother and unmarried sister would be entitled to enjoy same privilege complimentary pass even upon his retirement.

5. Ld. Counsel for applicant would further submit that his prayer dated 08.05.2015 to the Chief Office Superintendent/Pass Section has been arbitrarily rejected by the authority on 30.05.2015 (Annexure A-3 to the OA) stating that "no Railway Retd. Employee is entitled to avail dependent relatives including Unmarried Sister in his complimentary passes as per entitle rule."

Ld. Counsel for applicant would urge that such rejection was contrary to the provision (as extracted supra) and asserted that retired Group "C" employee is entitled to continue to enjoy such passes as he was enjoying at the time of his service.

6. Per contra, ld. Counsel for respondents would vehemently oppose the claim on the ground that the applicant while serving as Technician Grade I enjoyed privilege pass for self, widow mother and unmarried sister on the basis of family declaration submitted by him, and the said facilities were continued inadvertently even after his retirement due to mis-interpretation of rules by the then dealing clerk and that the unmarried sister is no longer entitled to complimentary pass in view of specific provision in RBE No. 13/96. Ld. Counsel would assert that such complimentary pass was stopped as per law with effect from 23.05.2015 and necessary instructions were issued to that effect.

7. Ld. Counsel for respondents would further invite my attention to RBE No. 13/96 which is extracted infra:

"R.B.E. No. 13/96

Subject: Inclusion of widowed mother in post-retirement complimentary pass.

In terms of Rule 8(2) and schedule IV of the Railway servants (pass) Rules, 1986, post-retirement complimentary passes are issued to railway servants for self, wife/husband and children only, subject to the fulfilment of conditions as applicable to railway servants in service.

2. *The question of extension of the aforementioned facility to the widowed mother of the retired Railway employee has been considered by the Board and it has been decided that the widowed mother of the retired railway employee may also be included in the post retirement complimentary passes, as any other family member of the retired Railway employee.*

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

Placing the said provision, ld. Counsel for respondents would contend that only widow mother have been allowed to be included in the post-retirement complimentary passes and it applied to all government employees irrespective of rank and therefore, the applicant on the ground that he served as Group "C" cannot seek a different treatment to enjoy complimentary passes for unmarried sister even after his retirement,

6. Per contra, ld. Counsel for respondents would vehemently oppose the claim on the ground that the applicant while serving as Technician Grade I enjoyed privilege pass for self, widow mother and unmarried sister on the basis of family declaration submitted by him, and the said facilities were continued inadvertently even after his retirement due to mis-interpretation of rules by the then dealing clerk and that the unmarried sister is no longer entitled to complimentary pass in view of specific provision in RBE No. 13/96. Ld. Counsel would assert that such complimentary pass was stopped as per law with effect from 23.05.2015 and necessary instructions were issued to that effect.

7. Ld. Counsel for respondents would further invite my attention to RBE No. 13/96 which is extracted infra:

"R.B.E. No. 13/96

Subject: Inclusion of widowed mother in post-retirement complimentary pass.

In terms of Rule 8(2) and schedule IV of the Railway servants (pass) Rules, 1986, post-retirement complimentary passes are issued to railway servants for self, wife/husband and children only, subject to the fulfilment of conditions as applicable to railway servants in service.

2. The question of extension of the aforementioned facility to the widowed mother of the retired Railway employee has been considered by the Board and it has been decided that the widowed mother of the retired railway employee may also be included in the post retirement complimentary passes, as any other family member of the retired Railway employee.

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

Placing the said provision, ld. Counsel for respondents would contend that only widow mother have been allowed to be included in the post-retirement complimentary passes and it applied to all government employees irrespective of rank and therefore, the applicant on the ground that he served as Group "C" cannot seek a different treatment to enjoy complimentary passes for unmarried sister even after his retirement,

when such unmarried sister have not been allowed specifically to be included in such pass.

8. I have heard Id. Counsel for both the parties and perused the materials placed on record.

9. I discern that while widow mothers have been specially allowed to be included in post-retirement complimentary pass, unmarried sisters are not.

10. The materials on record there do not also indicate any specific bar imposed upon such unmarried sisters. In absence of any specific bar, in regard to issuance of post retirement complimentary pass in favour of unmarried sister of retired employees, I direct the respondents to seek a clarification from the Railway Board which shall govern the claim of the present applicant for inclusion in post-retirement complimentary pass of her brother as unmarried sister. However, it goes without saying that the widow mother shall have the right to enjoy such benefits of complimentary pass in terms of RBE (supra).

11. Thus, the OA stands disposed of. No costs.

(Bidisha Banerjee)
Member (J)

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