



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

O. A. No.350/00 1007 of 2019

M.A.No.350/557/2019

1. Taraknath Hati, son of Late Kalipada Hati, aged about 54 years, working as Office Superintendent, under Senior DEE/TRS/Satragachi Jagacha, Howrah residing at P. O. & Town Arambagh, P. S. Arambagh, Ward No.19, Vivekananda Palli, District Hooghly, West Bengal - 712601.

2. Kumarjit Seal, son of Late Jagat Bandhu Seal, aged about 54 years, working as Office Superintendent, Vigilance, SER, Garden Reach, residing at Narua Sarkarpara, Post Chandannagore, District Hooghly, West Bengal-712136.

3. Narayan Chandra Sarkar, son of Late Ram Charan Sarkar, aged about 57 years, working as Office Superintendent, Asst. Divisional Signal & Telecom Engineer, Santragachi, Railway Building, Santragachi, S. E. Railway, residing at Majherpara Road, P. O. Krishnanagar, P. S. Kotowali, District Nadia, West Bengal - 741 101.

4. Amitava Das, son of Late Chittaranjan Das, aged about 54 years, working as Electric Loco Pilot (Shunter), CC(G)/Electric, E/Pooling Shed, Santragachi, SER, KGP Division, Howrah, residing at C/o. Arunava Das (Damu), Village & P. O. Jhorehat (Raja Bagan), Via Andul-Mouri, P. S. Sankrail, District Howrah, West Bengal - 711 302.

5. Kajal Kumar Datta, son of Late Niranjan Datta, aged about 57 years, working as Electric Loco Shunter, CCG/SRC, Electrical Loco Shed, Santragachi, Kharagpur Division, S.E. Railway, Howrah, residing at 45/23 "A" Road, Anandapur, Barrackpore, P. O. Nona-Chandanpukur, District North 24-Parganas, Pin - 700 122, West Bengal.

6. Dipak* Kumar Adak, son of Late Nandadulal Adak, aged about 55 years, working as Loco Pilot (Goods) at Santragachi/SER, Chief Crew Controller (Elect), Santragachi, South Eastern Railway, residing at 70/2, School Road, Kalianibas, P. O. Nona-Chandanpukur, P. S. Titagarh,

District North 24-Parganas, Pin -
700 122.

7. Tarak Nath Saha, son of Late
Mano Mohan Saha, aged about 55
years, working as Loco Pilot
(Goods) Electric, CC(G), Electric,
Santragachi, Kharagpur Division,
S. E. Railway, Howrah, residing at
Gorkhara Ghosh Para, P. O. & P. S.
Sonarpur, District 24-Parganas
(South), Kolkata - 700 150, West
Bengal.

8. Shyamal Kumar Das, son of
Late Sudarsan Das, aged about 55
years, working as Loco Pilot
(Goods)/KGP, SSE (Loco), S E.
Railway, Kharagpur, residing at
C/o. Raja Printers (Near Padakhep
Club), Rishi Bankim Sarani, West
Hridaypur, Barasat, Kolkata - 700
127.

9. Sunil Kumar Ghosh, son of Late Dulal Chandra Ghosh, aged about 56 years, working as Electric Loco Pilot (Goods), Santragachi, Kharagpur, South Eastern Railway, Cren Lobby, Santragachi, Howrah, residing at Shantipally Goaltuli, P. O. & District Hooghly, Pin - 712 103, West Bengal.

10. Brihaspati Das, son of Adhir Chandra Das, aged about 44 years, working as Loco Pilot (M/Exp.), CCC/Loco/Kharagpur, S. E. Railway, residing at Village Baneswar Chak, P.O. Golap Chak, P. S. Durga Chak, District Purba Medinipur, Pin - 721 658, West Bengal.

11. Pabitra Kumar Maity, son of Late Nabadwip Chandra Maity, aged about 57 years, working as

B

Loco Pilot (Goods),
CCC/Loco/Kharagpur, S. E.
Railway, residing at 53, Mukherjee
Para Lane, Ramrajatala, P. O.
Santragachi, P. S. Jaggacha,
District Howrah, Pin - 711 104.

12. Dibakar Koley, son of Late
Santosh Kumar Koley, aged about
57 years, working as Loco Pilot
(Goods), CCC/Loco/Kharagpur, S.
E. Railway, residing at B.C. Bhar
Road (Near Pravash Kanoo
Bhakunda, P. O. Chandannagar,
District Hooghly, Pin - 712136.

13. Subrata Adhikari, son of Late
Subhas Chandra Adhikari, aged
about 54 years, working as Loco
Pilot (Goods), CCC/Santragachi, S.
E. Railway, Howrah, residing at
Panchanan Apartment, 118,

SRG

Nabalia Para Road, P. O. Barisha,
Kolkata - 700008.

14. Chinmoy Das, son of Madhab
Chandra Das, aged about 56 years,
working as Office
Superintendent/Sr. DEE/TRS/SRC
Santragachi, Jagacha, Howrah,
residing at Adarshapally, P. O.
Nona-Chandanpukur, P. S.
Titagarh, District North 24-
Parganas, Pin-700 122.

... Applicants

-Vs-

1. Union of India service through
the General Manager, South
Eastern Railway, Garden Reach,
Kolkata - 700 043.

2. The Secretary, Railway Board,
Rail Bhawan, New Delhi-110001.

Chief Person

Eastern Railway

700043

Minister

3. The General Manager, South Eastern Railway, Garden Reach, Kolkata-700043.

4. The Principal Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata-700043.

5. The Secretary, Ministry of Finance, North Block, New Delhi-110001.

... Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

O.A/350/1007/2019
M.A./350/557/2019

Date of Order: 20.08. 2019

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

TARAKNATH HATI & OTHERS

VS.

UNION OF INDIA & OTHERS(S.E. Railway)

For the applicant : Mr. S.K. Datta, counsel

For the respondents : Mr. A.K. Datta, counsel

ORDER

Bidisha Banerjee, Member (J):

The M.A.No.350/557/2019 which is filed seeking permission to move the O.A. jointly under Rule 4(5)(a) of C.A.T.(Procedure) Rules, 1987, is allowed.

2. The applicants, 14 in number, have preferred this O.A. to seek the following reliefs:-

"a) An order holding that the applicants are entitled to/were entitled to be governed by the Railway Pension Rules of 1993 instead of New Pension Scheme of 2004;

b) An order directing the respondents to bring the applicants under the purview of Railway Pension Rules of 1993 in place and stead of New Pension Scheme of 2004 from their initial appointment and further directing them to extend all benefits to the applicants as attached to the Pension Rules of 1993;

c) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. Case of the applicants in a nutshell is that pursuant to a notification vide Employment Notice dated 25.05.2002 they were allowed to appear at a written test held in September, 2002 result whereof was published in August, 2003 and a panel was prepared prior to introduction of New Pension Scheme of 2004. The empanelled candidates who were allowed to join their respective posts prior to 01.01.2004 have been ordered to be governed by Old Pension Rules, 1993 whereas the applicants who joined after 01.01.2004 due to administrative delay, have been brought under the purview of New Pension Scheme introduced w.e.f. 01.01.2004.

4. At hearing Id. counsel for the applicants would submit that the applicants have not approached the authorities to seek benefit of the Old Pension Rules, 1993 in view of the fact that they stood empanelled in terms of the Employment Notice dated 25.05.2002 and were discriminated illegally vis-à-vis the empanelled candidates who were allowed to join prior to 01.01.2004.

4. Since the available departmental remedies i.e. preferring representation to the authorities have not been exhausted, Id. counsel for the applicants would seek liberty to allow the applicants to approach the authorities with individual representations for being governed by the Old Pension Rules, 1993.

5. Accordingly without entering into the merits of the matter and having noticed that the applicants have a genuine grievance as candidates from the same panel have been treated differently on the

basis of their dates of appointment/joining, we permit the applicants to withdraw the present O.A. with liberty to seek benefit of the Old Pension Rules of 1993 by preferring comprehensive representations to the competent authority within a period of 4 weeks from the date of receipt of a copy of this order, which if preferred, shall be duly considered by the competent authority as per law if nothing stands in the way. While making comprehensive representations, the applicants may cite relevant provisions and authorities which shall be duly considered while issuing order on their representations. The entire exercise be completed within a period of 4 months from the date of communication of this order.

7. The O.A. stands disposed of. No order as to costs.
8. Applicants to individually bear the court fees.

(Dr.Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

basis of their dates of appointment/joining, we permit the applicants to withdraw the present O.A. with liberty to seek benefit of the Old Pension Rules of 1993 by preferring comprehensive representations to the competent authority within a period of 4 weeks from the date of receipt of a copy of this order, which if preferred, shall be duly considered by the competent authority as per law if nothing stands in the way. While making comprehensive representations, the applicants may cite relevant provisions and authorities which shall be duly considered while issuing order on their representations. The entire exercise be completed within a period of 4 months from the date of communication of this order.

7. The O.A. stands disposed of. No order as to costs.
8. Applicants to individually bear the court fees.

(Dr.Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)