

(2026) 02 CAT CK 1595

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 31 Of 2014

S.K. Moitra & Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 13-02-2026

Acts Referred:

Citation : (2026) 02 CAT CK 1595

Hon'ble Judges : Om Prakash VII, Member (J); Mohan Pyare, Member (A)

Bench : Division Bench

Advocate : K.K. Mishra, Pramod Kumar Rai

Final Decision : Allowed

Judgement

Mohan Pyare, Member (A)

1. Shri K.K. Mishra, learned counsel for the applicants and Shri Pramod Kumar Rai, learned counsel for the respondents are present.

2. By means of this OA, the applicants have sought the following reliefs :

" (i) That this Hon'ble Court may graciously be pleased to quash and set-aside the impugned order dated 31.01.2013 passed by Respondent No.4 communicated on 14.02.2013.

(ii) That this Hon'ble Court further be pleased to direct the respondent no.2 to fix the grade pay of applicants on the basis of the pay scale of 6500-10500 w.e. from Nov. 2003 with arrears of differences in the salary with all consequential benefits.

(iii) That this Hon'ble Court may further be pleased to pass such other and/or further order as deem fit, proper and necessary in the circumstances of the case.

(iv) Award costs to the applicants."

3. The brief facts as narrated by the applicants is that the Applicant No.1 joined

the service as Work Mistry from 05.02.1987, Applicant No.2 joined from 30.03.1990 as Work Mistry and Applicant No.3 joined as Junior Engineer on 16.09.1987 in the department of respondents. On 10.01.2000, all the three applicants were promoted as Junior Engineer Grade-I in the pay scale of Rs.5500-9000/-. The Railway Board vide letter dated 09.10.2003 directed to review the functioning of Grade 'C' and 'D' staff and as a result it was decided to restructure the cadre on the cut-off-date i.e. 09.10.2003. It is undisputed that Shri Vijay Pratap Singh, Rama Shankar, U.N. Shukla and A.K. Upadhyay are seniors to the applicant in the grade of Rs.5500-9000/-. They were on deputation to other departments though their lien was continuing to the department. There were 08 vacancies after restructuring and applicants are at Sl.No.10, 11 and 13 and above named 04 persons stands at Sl.No.1,2,4 and 5. These 04 persons have been given the benefit of restructuring which is not correct as they were working on deputation to other departments. The applicants made a joint representation on 14.11.2005 to respondent No.3 pointing the above illegality but the same was not looked into. Aggrieved by the above act, the applicants have filed OA No.49 of 2006, which was decided on 26.09.2012. The copy of the judgment was served to the respondents, which was not properly looked into and the impugned order passed contrary to direction issued in the judgment of OA No.49 of 2006.

4. The order of the respondents is contrary to Railway Board's letter dated 09.10.2003. The order dated 31.01.2013/14.02.2013 is illegal, arbitrary and in complete contravention of Railway Board's letter dated 09.10.2003 and the direction issued by this Tribunal in OA NO.49 of 2006. Hence, this OA.

5. Learned counsel for the respondents have refuted the claim of the applicant by filing a counter affidavit and have submitted that the employees posted on deputation were senior to the applicants and their lien was still with the respondents' department so they cannot be deprived of promotion after restructuring and accordingly were promoted. The respondents have gone through the direction issued in OA No.49 of 2006 and passed a reasoned and speaking order dated 31.01.2013 and on the basis of above they have requested to dismiss the OA as devoid of merit.

6. Learned counsel for the applicants has filed the rejoinder affidavit almost reiterating the same facts which has already narrated in the OA.

7. We have heard the rival submission and gone into the documents annexed with the OA.

8. Learned counsel for the applicants has relied on the judgment of this Tribunal passed in OA NO.49 of 2006. The operating portion of the aforesaid judgment is reproduced as below :-

"7. The sole question which is to be decided in the instant original application is that whether the persons, who were on deputation did not join the parent department for a particular period, can a person next below to him be given the

said benefit till the person on deputation joins the parent department i.e. principle of next below rule'. In the instant case, the letter has been written on 12.01.2005 by the respondents to the persons senior to the applicants and to whom the benefit of pay scale of Rs. 6500-10500 was given on restructuring of cadre, to join the parent cadre. The relevant extract of the letter dated 12.01.2005 reads as under: -

8. It is not informed by the respondents whether they have joined the department or not. Rather attention has also been drawn to Railway Board's Circular dated 09.10.2003 regarding restructuring of certain Group 'C' and 'D' cadre. Clause 1 of this circular deals with the date of effect. Relevant extract of Clause 1 reads as under-

".....The benefit of restructuring will be restricted to the persons who are working in a particular cadre on the cut off date."

On the basis of this counsel for the applicants submitted that since the persons to whom the benefit was given, were not in the parent department on that date, therefore, benefit cannot be extended to them.

9. Without considering the above arguments and following the principle of Next Below Rule' we are of the considered view that if a person, who was on deputation, cannot join the parent cadre to get the benefit then the other persons, who are next below, be given the benefit and the person, who are on deputation, will get actual benefit when he joins the parent cadre. Our view finds support by the judgment of Hon'ble Apex Court in the case of P.S. Mahal and Ors Vs. Union of India & Ors 1984 (4) SCC 545.

10. In view of the above, we direct the respondents to look into the matter afresh in terms of what has been stated above and pass orders within a period of two months from the date of receipt of certified copy of the order.

9. Learned counsel for the applicants also relied on the judgment of Hon'ble Supreme Court in the case of P.S. Mahal Vs. Union of India & ors.

10. This Tribunal has also relied on the above judgments while deciding the OA No.49 of 2006. The direction issued by this Tribunal in the above OA was very clear. The Tribunal has given clear finding that the person who was on deputation and cannot join parent cadre to get the benefit then the other persons who are next below be given the benefit and persons who are on deputation will get actual benefit when he joins the parent cadre.

11. In the light of above finding, the impugned order is silent on this issue. The respondents have not shown any rules or any letter though they have quoted in the impugned order some letters. In the absence of any such authentic document, this Tribunal is of the considered opinion that the applicants have established a cogent case in favour of relief claimed. The relief claimed by the applicant in this OA is having merit. Accordingly, the OA is allowed. The order dated 31.01.2013 communicated to applicants on 14.02.2013 is quashed and set

aside. The respondents are directed to grant the benefit of up-gradation on restructured post from the date other persons senior to applicants have got the benefit. This exercise should be completed within a period of three months from the date of receipt of certified copy of this order. No order as to costs.

12. All MAs pending in this O.A. also stand disposed off.