(2025) 09 CAT CK 0458

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 330, 792 Of 2017

Vinod Kumar APPELLANT

Vs

Union Of India & Ors. RESPONDENT

Date of Decision : 18-09-2025

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution Of India, 1950 — Article 14, 21

Citation : (2025) 09 CAT CK 0458

Hon'ble Judges : Om Prakash - VII, Member (J)

Bench : Single Bench

Advocate : A.K Srivastava, Arvind Kumar

Final Decision : Allowed

Judgement

Om Prakash VII, Member (J)

1. The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

"(i) To issue a writ, order or direction in nature of mandamus commanding the respondents to give effect the regularization from the date on completion of 3 years from the date of initial appointment and 50% of the service to be added in applicant's service so that the financial benefits may be granted.

(ii) To issue a writ, order or direction in nature of mandamus commanding the respondents to give interest of 18% from the order No. E9(NG)III-77/RCI/80 dated 21.04.1982 and No. E(NG)II/84 RC8/8 dated 20.04.1985 passed by the Railway Board in regard Mobile Booking Clerks and orders and judgments passed by the Hon'ble Tribunal, Hon'ble High Court and affirm by the Hon'ble Supreme Court.

(iii) Issue any other suitable, writ, order or direction as this Hon'ble Tribunal may deem fit and proper under the fact and circumstances of the case.

(iv) Award the costs of the OA in favour of the applicant".

2. The brief facts of the case are that the the applicant was initially appointed as Volunteer Mobile Booking Clerk on 04.09.1979 and attained temporary status on 04.01.1980. He retired on 30.11.2016. While the Pensioner's Certificate shows his service from 22.02.1985 to 30.11.2016 (31 years 5 months) allegedly causing financial loss. Due leave records were not properly accounted for, resulting in short payment of leave encashment, pay fixation, and retiral dues. At retirement, he was granted pension on pay of Rs.24,500/- instead of at least Rs.30,000/-. Applicant was denied timely promotion, proper fixation of pay, grade pay, and seniority. The applicant relies on Railway Board's letter dated 21.04.1982 and judgments of the Hon'ble Supreme Court, which according to him, mandated regularization of his service earlier. The applicant seeks direction to the respondents to give effect the regularization from the date of initial appointment and adding 50% of total service w.e.f. 04.01.1980 to 04.09.1982.

3. The respondents stated in the counter affidavit that applicant was engaged as a Volunteer Mobile Booking Clerk at various railway stations, and therefore 50% of his service cannot be counted towards qualifying service for pension. In compliance with the order of the CAT, Principal Bench, New Delhi in OA No. 558/2002 dated 30.04.2004, the applicant's services were treated as regular after completion of three years from the date of initial appointment and all consequential benefits have already been extended. The Railway Board's letter dated 20.04.1985 stipulated that absorption against regular vacancies could be granted only if the employee had the requisite qualifications for direct recruitment and had completed at least three years of service as a Volunteer/ Mobile Booking Clerk. Regarding pay fixation, the respondents submit that the applicant was drawing salary of Rs.18,970/- on 01.07.2015. After implementation of the 7th Pay Commission, his pay was fixed at Rs.49,000/- on 01.01.2016, and subsequently at Rs.50,500/-on 01.07.2016 after grant of increment. This fixation is correct and strictly in accordance with rules. Hence, the applicant's claim of financial loss of Rs.30,000/- is incorrect and baseless.

4. The applicant has filed Rejoinder Affidavit to the Counter Affidavit as filed by the respondents refuting the contentions made by the respondents in their Counter Affidavit while reiterating the averments made in the O.A. and nothing new has been added.

5. I have heard Shri A.K Srivastava, learned counsel for the applicant and Shri Arvind Kumar, learned counsel for the respondents and perused the record.

6. The submission of learned counsel for the applicant is that the applicant was first appointed as a Volunteer Mobile Booking Clerk on 04.09.1979 and got temporary status on 04.01.1980. He served continuously and retired on 30.11.2016. However, the respondents have wrongly treated his date of regular appointment as 22.02.1985, which has reduced his qualifying service without giving any valid reason. It is further argued that the respondents themselves, in

the documents annexed with Annexure A-7, have clearly mentioned that in compliance with the direction of the Tribunal, they revised the date of regularization of the applicant and also passed a speaking order, which is annexed with Annexure A-7 of the O.A. Hence, it is evident that the respondents have admitted the case of the applicant and fixed his date of regularization as 28.03.1983. From a plain reading of Annexure A-7, it is clear that the services of the applicant were regularized with effect from 28.03.1983. However, in the PPO, the date of regularization has been wrongly shown as 22.02.1985. Such an error is apparent in the respondents' own records and orders, and therefore, the action of the respondents in mentioning a later date in the PPO is arbitrary and unjust. It is further argued that the respondents did not properly account for the applicant's leave records, because of which he was denied full leave encashment and other retirement benefits. His pension was fixed on a pay of Rs. 24,500/- from 01.12.2016, whereas it should have been at least Rs. 30,000/-. He also contended that the reliance of the respondents on the Railway Board's letter dated 20.04.1985 is misplaced. The applicant had already completed three years of continuous service before that date, and as per the Railway Board's earlier circular dated 21.04.1982 and the judgments of the Hon'ble Supreme Court, his service should have been regularized from an earlier date. It is further submitted that while the respondents claimed that in compliance of earlier Tribunal orders, they have done so only partially and to the prejudice of the applicant. Retiral dues and pensionary benefits are not a matter of charity but a legal right of an employee, protected under Articles 14 and 21 of the Constitution of India. Any wrongful deduction from service or denial of proper pay fixation amounts to violation of these rights. The plea of the respondents that the applicant suffered no financial loss is not acceptable, because the incorrect fixation of pay, denial of arrears, leave encashment and proper pension have caused the applicant continuous loss even after his retirement.

7. In rebuttal, learned counsel for the respondents argued that applicant was engaged as a Volunteer Mobile Booking Clerk at different railway stations. Under the applicable rules, 50% of such service cannot be counted towards qualifying service for pension. The respondents have, however, already extended to the applicant all admissible benefits in accordance with law. It is also argued that in compliance with the order of the CAT, Principal Bench, New Delhi in O.A. No. 558/2002 decided on 30.04.2004, the applicant's services were treated as regular only after completion of three years from his initial engagement. Consequently, all service benefits flowing from such regularization have been duly granted. The Railway Board's circular dated 20.04.1985 clearly provided that absorption against regular vacancies would be permissible only if the employee possessed the prescribed educational qualifications and had completed a minimum of three years of service as a Volunteer/Mobile Booking Clerk. The applicant was brought within the ambit of this policy, and his case has been dealt with strictly as per rules. Learned counsel next argued that as regards the claim of short fixation of pay, it is stated that the applicant was drawing pay of

Rs.18,970/- on 01.07.2015. Upon implementation of the 7th Central Pay Commission, his pay was correctly revised to Rs.49,000/- on 01.01.2016, and thereafter to Rs.50,500/- on 01.07.2016 after the grant of one increment. This pay fixation is strictly in accordance with the rules and no financial loss has been caused to the applicant. His allegation that he has suffered a loss of Rs.30,000/- is factually incorrect and without any basis. It is further submitted that the respondents have fully complied with all directions of this CAT, Principal Bench in earlier proceedings, and there is no violation of rules or denial of legitimate benefits to the applicant. The present claim is, therefore, misconceived and liable to be dismissed.

8. I have carefully considered the rival submissions advanced by learned counsel for the parties and perused the material available on record.

9. The admitted position is that the applicant was initially engaged as a Volunteer Mobile Booking Clerk on 04.09.1979 and was granted temporary status on 04.01.1980. He continued in service uninterruptedly till his retirement on 30.11.2016.

10. The respondents themselves have passed a speaking order, as reflected in Annexure A-7 to the O.A., whereby the services of the applicant were regularized w.e.f. 28.03.1983. However, in the Pension Payment Order (PPO), the date of regularization has been wrongly reflected as 22.02.1985, thereby reducing his qualifying service. This inconsistency is not supported by any cogent reasoning. Once the respondents have admitted and ordered regularization from 28.03.1983, they are bound by their own decision and cannot subsequently alter the date to the detriment of the applicant.

11. The plea of the respondents that 50% of volunteer service cannot be counted towards qualifying service is not acceptable in the present case. The Railway Board's letter dated 21.04.1982, read with the later clarifications and the judgments relied upon by the applicant, clearly extended the benefit of counting part of such service for pensionary purposes. The applicant had already completed more than three years of continuous service prior his regularization i.e. in the year 1983, and thus the Railway Board's later circular dated 20.04.1985 cannot be applied to deprive him of benefits which had already accrued in his favour.

12. With regard to pay fixation, it is noted that the applicant's pay was fixed at Rs.24,500/- at the time of retirement. However, considering the length of service, the date of regularization, and the correct fixation of increments, his pay ought to have been at least Rs.30,000/-. The incorrect fixation has directly impacted his pension, gratuity, and leave encashment, resulting in continuous financial loss. Retiral dues and pensionary benefits are not matters of concession but enforceable rights under Articles 14 and 21 of the Constitution.

13. It is, therefore, evident that the action of the respondents in wrongly fixing the date of regularization as 22.02.1985 instead of 28.03.1983, and in not

properly accounting for leave records and pay fixation, is arbitrary, unjust, and contrary to law. The applicant is entitled to correction of his service records and re-fixation of pensionary benefits accordingly.

14. In view of the aforesaid findings, the Original Application deserves to be allowed. Accordingly, the O.A. is allowed with the following directions:

(i) The respondents are directed to treat the applicant’s service as regularized with effect from 28.03.1983, as per their own speaking order (Annexure A-7), and to correct all service records, including the Pension Payment Order, accordingly.

(ii) The respondents shall re-fix the pay of the applicant at the time of retirement, keeping in view the corrected date of regularization, and thereafter revise his pension and other retiral dues, including leave encashment, gratuity, and commutation of pension, as per rules.

(iii) The arrears arising out of such revision shall be calculated and paid to the applicant within a period of three months from the date of receipt of a copy of this order, along with simple interest at the rate of 6% per annum till actual payment.

(iv) There shall be no order as to costs. All pending MAs are disposed of.