



FEDERATION OF RAILWAY OFFICERS' ASSOCIATIONS

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No.: 2018/FROA/1

Dated: 18/01/2018

To

Chairman

Railway Board
New Delhi

Sub: Recasting of *inter se* seniority of directly recruited Group-A Officers vis-a-vis Promotees: Implementation of the judgement of Hon'ble Supreme Court in Civil Appeal No. 7514-7515/2005/N.R. Parmar Vs UOI & others dated 27/11/2012.

Ref:-

1. DOPT OM 20011/1/2012-Estt. (D) dated 04/03/2014.
2. Judgment of Hon'ble CAT Patna in OA/050/00460/2015-R.K. Kushwaha Vs UOI dated 03/05/2016.
3. Judgment of Hon'ble High Court Patna in CWJC/10669/2016 dated 12/05/2017.
4. Order of Hon'ble CAT/Patna dated 16.11.2017 in C.P. 50/70/2017.
5. Order of Hon'ble Supreme Court dated 15.12.2017 in SLP(C) No. 22444/2017.
6. FROA's earlier letter No. 2017/FROA/1 Dated 19.05.2017.

Dear Sir,

In the above referred matter, it is learnt that much correspondence is being exchanged between the Ministry of Railways and the DoPT as well as various other forums. FROA would, therefore, like to bring the following to your attention:

1. Law evolves:

Different Departments of Government of India have, at various times, used various methodologies to fix *inter se* seniority of promotee officers vis-à-vis direct recruits in Group-A services some of which were, in fact found to be

unjust and unfair. In its land mark judgment in N.R.PARMAR case dated 27.11.2012, Hon'ble Supreme Court has settled the lawful procedure on the subject and DOPT, after inter-ministerial consultations, had notified the procedure to all Ministries of Government Of India Vide its OM dated 04.03.2014 (Ref-1 above).

FROA had urged the Railway Board vide its letter dated 19.05.2017 (Ref-6 above) to implement the procedure as settled by Hon'ble Supreme Court in N.R.PARMAR case. Once the law has evolved under the directions of Hon'ble Supreme Court, Railway Board was expected to align its administrative rules and methods with the law. FROA regrets that Ministry of Railways has been reluctant to recognize the evolutionary process of the law and to implement the latest judgment of Hon'ble Supreme Court resulting in great anguish, frustration and pain among all Group-A officers of Indian Railways, especially those young officers who are eagerly anticipating their JAG and SS Promotions across the Zonal Railways.

2. Administrative opinions vis-à-vis judicial verdicts:

It is learnt that Shri B. Majumdar, JS/E-II, Railway Board has made a reference to DOPT vide his Note No. E (O)-I/2014/SR-6/11CC dated 05.12.2017 by quoting para 2 of Allocation of Business Rules, 1961 while completely omitting any reference to paras 23, 37, 38 & 42(a) of the same rules. It is an established principle in resolution of any administrative matter that "General Questions" cannot take the place of "General Policy". A wholesome reading of Allocation of Business Rules, 1961 along with provisions of statutory Recruitment Rules of Railway Services and Indian Railway Establishment Code leaves no doubt about the absence of any autonomy of Ministry of Railways in framing stand-alone rules on *interse* seniority of Group-A Services.

Be that as it may, in any case, no rules including Allocation of Business Rules, 1961 can isolate Ministry of Railways from the applicability of the judgment of Hon'ble Supreme court as it is the law of the land and which not only clarifies but also takes precedence over all administrative rules. Ministry of Railways needs to align its policy with the N. R. Parmar judgment as directed by Hon'ble CAT/Patna and upheld by Hon'ble High court of Patna. It cannot base its policy upon a couple of views of individuals on files.

It is also not out of place to mention that Railway Board has, on earlier occasions, conceded the primacy of DOPT notified policies on matters relating



to Group A Services (Example: RTI reply furnished by RR Section of E/G Branch of Railway Board on 21.07.2015).

3. Genesis of the impasse:

The present impasse has come about owing to a series of decisions taken over a period of time which have had far reaching impact on the principle of equity as applied on Indian Railways.

(i) Upward revision of promotion quota of eight Group A services from 180 to 411 and revision of Junior Scale Group A sanctioned strength from 722 to 1647 between 2005 to 2007 by irregular merger of "leave reserve" and Group B posts into JTS regular posts.

(ii) Induction of large batches of Group B officers into Group A violating the statutory recruitment rules and judgment of the Hon'ble Supreme Court in Dr R. N. Bhatnagar case notified by DOPT on 19.01.2007. (A separate batch of petitions are pending in multiple CATs on this issue).

(iii) Induction of large batches of direct Group A officers through UPSC, disregarding actual vacancies, to provide covert justification for huge inductions from Group B to Group A.

(iv) Violation of DOPT's "optimization policy" of 2001.

(v) Ante-dating of seniority of promotee officers including the malafide act of arbitrary and unauthorized fixing of Rs. 18,950/- as the cutoff pay for connotation.

The Seventh Central Pay Commission took an adverse note of the above discrepancies and in its Report, directed Railway Board to make a course correction. FROA submitted its views twice to the EDs' Committee setup by the Railway Board pursuant to directions of 7th Pay commission **but to no avail**.

It is also relevant to reiterate a point made earlier also; that since there is no direct recruitment to Group B in the Indian Railways, effectively principle of equity should be applied with reference to Group A officers recruited directly through open competitive examinations conducted by the Union Public Service Commission **juxtaposed** against Group B officers who would have reached



gazetted status from erstwhile Group D and Group C through examinations conducted internally by the Zonal Railways. Thus, any attempt to equate Group B officers of the Indian Railways to those who are directly recruited through competitive examinations in Group B by the UPSC cannot be acceptable in the present discussion.

4. The Way Forward:

Hon'ble CAT /Patna and Hon'ble High court/Patna have shown the way through their erudite judgments. Hon'ble Supreme Court has also seen through the issue and has passed an interim order on 15.12.2017.

FROA requests Railway Board to honour the judicial verdicts and take following action in compliance of them:

(i) Issue JAG confirmation orders of Direct Recruits of 2007 exam batch for four Services (IRTS, IRSEE, IRSME and IRSSE) which are long overdue since these officers are being put to not only monetary loss due to lower pay scale and loss of increments, but also are losing multiple other benefits including status commensurate with their justified position associated with confirmed JAG promotion.


(ii) Withdraw JAG promotion orders of promotee officers issued by Railway Board after 12.07.2016, the cut-off date set by Hon'ble Supreme Court.

(iii) Align *inter se* seniority rules to the procedure set by Hon'ble Supreme Court in N R Parmar judgment as notified by DOPT vide OM dated 04.03.2014.

(iv) File lawful response in Hon'ble Supreme court in the SLP (C) No. 22444/2017 in a fair and impartial manner.

FROA also asks for holding a formal meeting of Railway Board with FROA on the above issues.


President/FROA


Secretary General/FROA

Copy to:

- 1) PS to MR: for kind information of Hon'ble Minister of Railways.
- 2) PS to MOS(S) & PS to MOS (G): for kind information of Hon'ble Minister of State of Railways(S) and Hon'ble Minister of State of Railways(G).
- 3) MS, FC, ME, MRS, MT, MTR, Railway Board
- 4) Secretary/Railway Board
- 5) DG/Personnel, DG/S&T, DG/Stores, Railway Board.
- 6) EDF (E), EDE (GC), ED/IR and JS (E)-II, Railway Board.