



Western Railway Employees' Union

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J. R. Bhosale

General Secretary

No.PL/WS/20/2023

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To

**General Manager
Western Railway**

Sub: Incorrect denial benefit of Old Pension Scheme to Act Apprentices recruited in the year 2004/2005 as a Substitute- Case of Act Apprentices recruited as per Railway Board's order dated 21-06-2004.

Railway Board vide RBE No.41/2023 dated 14-03-2023 have permitted the employees recruited against the notification of vacancies on or before 22-12-2003 should give their options for Old Pension Scheme latest by 31-08-2023. The Ministry of Railway vide their letter RBE No. 198/99 dated 19-08-1999 have kept in hold recruitment of Act Apprentices trained under Apprentices Act 1961 mentioning there in that Act Apprentices will get preference with other candidates if all other things are being equal. The AIRF represented to Railway Board continuously for recruiting the Act Apprentices in railway against the existing vacancies as there was heavy shortage of staff on Indian Railway. This issue was finally decided and Railway Board issued instructions vide letter No. RBE No.136/2004 dated 21-06-2004. There are number of Act Apprentices recruited as a substitutes under General Manager's special power against the vacancies existing prior to 22-12-2003.

In case of selection of the candidates for giving the training of Apprenticeship and further absorbing them as substitutes and regularizing as Railway employees on Indian Railways, Southern Railway administration filed an Affidavit on behalf of Chairman, Railway Board, which have been narrated in Para 31 of Madras High Court's verdict on WP No. 8821 of 2007 is as under.

In the further Affidavit (dated 18.08.2009) filed by the appellants, it is stated that the candidates for Act Apprentices training are taken based on the numbers prescribed by the Directorate of Apprenticeship training by issuing open notification calling for applications from open market with copies to Employment Exchanges and selections are being conducted by a process of written test and viva voce. Therefore, it cannot be said that engagement of substitutes in the safety categories are illegal appointments. As discussed, earlier paras 2, 4.4, 5.1 and 5.3 of Master Circular provides for engagement of substitutes and conferring permanent status and then absorption therefore engagement of substitute cannot be said to be without reference to extant rules. The aforesaid 530 substitutes are said to have been working from 2000. Having regard to the mode of selection of candidates for Act Apprentices and keeping in view the period of their working, the appellants be permitted to regularize the services of 530 substitutes from the date of their engagement.

As per Para 32 – in the result, confirming the order of Tribunal in OA No. 520 of 2005 dated 16.11.2006, the Writ petition is dismissed. However, permitted the appellants to regularize the services of 530 substitutes engaged in Safety category vacancies from the date of their engagements.

It says that the proper procedure was followed for selecting them as a trainee under Apprentice Act 1961. The contention of the Act Apprentices are that, we have selected against the vacancies prior to 22.12.2003 and in continuation to our Act Apprenticeship we have appointed as a substitute under the special power of General Manager and there is no any other notification was issued for our recruitment in Railway. We have given the appointment on passing our Act Apprenticeship without any examination. And therefore, we are entitled for one time option for taking the benefit of old pension scheme as per RBE No. 41/2023 dated 10.03.2023.

It is also brought to the notice of this union that CWM-MX gave an appointment and option for Old Pension Scheme to 17 employees who has been appointed in the year 2006 and 2007 as per CWM-MX's Letter No. E/MX/PB/774/New Pension Scheme-2018, dated 04.09.2023. Whereas 30 CCAA who have successfully qualified and appointed as a substitute Khalasi and regularized them before these 17 employees are denied one time option for joining the Old Pension Scheme vide letter No. CWM-MX Note No E/MX/PB/774/New Pension Scheme-2018, dated 15.09.2023. This 30 CCAA were recruited in Indian Railways on the basis of their Apprenticeship without any further recruitment notification and therefore they are eligible for Old Pension Scheme. Similarly, CWM-PL gave appointment to 4 employees after 110 Act Apprentices regularized in the year 2005-06 and gave them one time option to switch over from New Pension Scheme to Old Pension Scheme vide their letter No. CWM-PL E(R&T)890/CW/Gen/2023, dated 08.12.2023.

It is pertinent to point out that other Central Government organizations in Mumbai such as Naval Dockyard and Central Railway have considered the cases of CCAA's trained before 22-12-2003 for coverage under Railway Service Pension Rules 1993 in place of New Pension Scheme. (Ref: (i) Office Order No.MTN/EM/E1/New Pension Scheme dated 11-11-2023 of CWM-Matunga Workshop (ii) Memorandum No. DYP/P/9107/NPS-TO-OPS (2023) dated 09-08-2023)

Since all CCAA's recruited on Western Railway without any notification but due to their joining as Act Apprentice for which notification given prior to 22.12.2003 should be given one time option for Old Pension Scheme.

There are numbers of such CCAA's were recruited in other workshops and open line on Western Railway. Therefore, requested to advice PCPO to examine it and issue necessary clarifications to all these units including divisions for giving one time option for switching over to Old Pension Scheme to all CCAA's trained before 22-12-2003 and recruited as Substitute Khalasis in open line and workshops.

You are also requested to advise CWM-PL and CWM-MX to examine the cases of these 110 CCAA's of PL workshop and 30 CCAA's of EMU POH workshop-MX and giving them the benefit of switching over from New Pension Scheme to Old Pension Scheme on the options submitted by them.


General Secretary