

**CWP-3146-2019****1**

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**(103)****CWP-3146-2019****Date of Decision : August 20, 2025**

**Assistant Divisional Engineer Northern Railways and another  
.. Petitioners**

**Versus**

**Bhagat Ram (since deceased) through LRs and others  
.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI  
HON'BLE MR. JUSTICE VIKAS SURI**

**Present:** Ms. Puneeta Sethi, Sr. Panel Counsel, with  
Mr. Y.S. Thakur, Advocate, for the petitioners.

Mr. Ashutosh Kaushik, Advocate (joined through VC), with  
Mr. Amit Bansal, Advocate, for respondent No.1.

**HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the challenge is to the order dated 18.10.2018 (Annexure P-6) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'Tribunal') by which, the benefit of the salary qua the post on which the respondent No.1-workman had been appointed at inception i.e. Gangman, has been allowed in his favour and the act of the petitioners of reducing the same on the ground that since becoming disabled, the respondent No.1-workman was performing the duty of a Khalasi-cum-Chowkidar, which post is in a lower pay scale and hence was entitled to the lower salary, has been set aside by the Tribunal.

2. Learned counsel for the petitioners submits that once, after becoming disabled, as respondent No.1-workman was not able to perform his duties for the post of Gangman on which he was appointed initially, he

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was directed to work as a Khalasi for eight hours and then a Chowkidar and therefore, the pay scale of Khalasi which was lower than that of Gangman was allowed and therefore, once the respondent No.1-workman has performed the duties of a particular post of Khalasi, only the salary admissible for working on the said post could have been given to the respondent No.1-workman, which fact has been ignored by the Tribunal while passing the impugned order dated 18.10.2018 (Annexure P-6).

3. Learned counsel for the petitioners further submits that while giving the benefit of pay scale admissible for the post of 'Gangman', the arrears admissible to respondent No.1 should have been restricted to a period of three years prior to the passing of an order, which fact has also been ignored by the Tribunal while passing the impugned order dated 18.10.2018 (Annexure P-6).

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It may be noticed that as per Rule 304 of the Indian Railways Constitution Code, which has been reproduced in the impugned order itself, it is stipulated that the employee, who suffers from a disability, during the performance of the duties assigned to him, will be adjusted on some other post but will avail same pay scale with all service benefits which he was availing at the time before he became disabled.

6. Learned counsel for the petitioners has not been able to dispute the said Rule being applicable upon respondent No.1-workman concerned in the present proceedings.



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7. Once, as per the rules governing the service, the pay scale admissible to respondent No.1 could not have been changed, granting the pay scale of Khalasi to the respondent No.1-workman which was lower than that of Gangman is contrary to the Rule 304 of the Indian Railways Constitution Code, which fact has gone unrebutted even during the hearing of the present petition.

8. Once, even while performing the duties of another post, the disabled person, as per the rules, is to get the same pay scale which he was drawing at the time when he became disabled, the reason given by the petitioners for challenging the order dated 18.10.2018 (Annexure P-6) is contrary to their own rules. The said Rule 304 of the Indian Railways Constitution Code is being reproduced hereunder for the ready reference.

*“304 (1) If any rail employee, during the course of service because of working conditions fail in eye test or otherwise fail, or unable to perform duties because of physical conditions, then he will not be terminated from services and **there will be no reduction in rank. He will be transferred on the same pay scale with all service benefits to some other post.***

*(2) Rail employee failing in aforementioned clause, will not perform duties of his post from the date he is declared medically de-categorized. If such employee is not immediately given alternative post work then till appropriate optional post is found he be posted in same pay scale with post on which he was working prior to declaration of medical de-categorization and efforts be made immediately to find out appropriate optional post for him.*

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*Ref: Persons with disability (Equal Opportunity, protection of rights and full participation) Act, 1995 and Rail Ministry letter dated 29.4.99 bearing No.E/NG/96/RE 3/9.”*

9. Further, other argument raised by the petitioners is that the benefit of arrears should be restricted for a period of three years prior to passing of order.

10. It may be noticed that once a disabled person was entitled for the benefit of particular pay scale which he was drawing before being disabled, which benefit was not extended to him, not allowing the benefit of arrears for the period he was de-voided of admissible benefit will cause prejudice to a disabled person, which cannot be allowed.

11. Further, being a welfare State, it becomes the duty of the Department to take care of its employees with regard to the benefit which they are entitled for under the Rules.

12. In the present case, rather than granting the benefit admissible to the respondent No.1-workman concerned under Rule 304 of the Indian Railways Constitution Code, his pay scale was reduced, which act was contrary to the said Rules hence, the argument by the petitioners that the entitlement of arrears should be restricted, in the facts and circumstances of the present case, cannot be accepted so as to cause prejudice to a disabled person who was entitled to continue to get the same salary which he was getting before becoming disabled.

13. The writ petition was filed in the year 2019 and nothing has come on record to show that there was any interim order in favour of the petitioners not to implement the impugned order of the Tribunal granting

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benefit of arrears. In case, the arrears have not been released so far, same be released within a period of four weeks from the date of receipt of copy of this order.

14. The writ petition is dismissed in above terms.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

**August 20, 2025**

*harsha*

**(VIKAS SURI)**  
**JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No