

NORTH CENTRAL RAILWAY

NCRPS-6396/2025

Headquarters Office
Subedarganj, Prayagraj

No. 797-E/NCR/Policy/2025/Court Case

Dated: .05.2025

All PHODs / CHODs, NCR HQ office, Prayagraj,
Divisional Railway Manager AGRA, JHANSI & PRAYAGRAJ,
CWM/JHS WS, CWM/ MLR WS, CWM/ RSK/STLI, CWM/CPOH Prayagraj,
Sr.DPO AGRA, JHANSI & PRAYAGRAJ, Dy.CPO/Const PRYJ, Dy.CPO/WS/JHS,
SPO/MLR, APO /RSK/STLI, CEE/WS/ JHS, Dy.CE/WS/JHS, Dy.CMM/GSD JHANSI,
Dy.CE/ Bridge Line JHANSI AGRA, Prayagraj, Dy.CE/ TMC Line JHANSI DyCE / CSP
Prayagraj, Staff Officer/RPF/NCR/HQ/Prayagraj. Dy.FA&CAO/G/NCR,
Principal- ETC/ Kanpur. Principal- IRTMTC / Prayagraj, Principal- CETA / Kanpur,
Principal- Supervisor Training Centre /Jhansi, Principal- Area Training Centre/Jhansi,
Principal- Transportation Training Centre, Subedarganj / Prayagraj, Principal- Basic Training
Centre, Loco/Jhansi, Principal- BTC/C&W/Jhansi, Principal- BTC, Wagon Workshop/Jhansi,
Principal- C&W training Centre/ Kanpur, Principal- Permanent Way Training Centre/JHS,
Principal- Electric Training Centre/TRD/Jhansi.

Sub: Guidelines to defend court case regarding counting of 50% of period of
engagement of commission Bearers/vendors prior to their absorption in
Railways for pensionary benefits.

Ref: Railway Board Letter No. E(NG)II/2020/Misc/NR/4 dated: 13.05.2025.

Copy of Railway Board Letter No. E(NG)II/2020/Misc/NR/4 dated: 13.05.2025 (along
with its enclosures), is annexed herewith for further necessary action.

Policy Letter Circulated under NCRPS/NCRBE is also be available on website
www.ncr.indianrailways.gov.in (About us→Department→Personnel→NCR Policy Circulars).

DA: as above

(Jitendra Singh)
APO/HQ
for General Manager/P

C/- Secretary to GM for kind information to General Manager.
C/- Secretary to AGM for kind information to AGM.
C/- All Personnel Officer in HQ.
C/- All Recognized Union and Associations.
C/- RP Cell, NCR/HQ monitor the position of reservation as advised in the letter.
C/- SWC for information in reference to SWC No.

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
रेलवे बोर्ड (RAILWAY BOARD)

No. E(NG)II/2020/Misc/NR/4

New Delhi, Dated: 13.05.2025

The General Manager,
All Zonal Railways/PUs & RDSO,
(As per Standard mail list)

Sub:- Guidelines to defend court case regarding counting of 50% of period of engagement of commission Bearers/vendors prior to their absorption in Railways for pensionary benefits.

In light of Hon'ble Supreme Court's judgement dated 31.10.2022, in Civil Appeal No. 2811/2022 (UOI & Ors vs. Munshi Ram) and other tagged matters, the matter is still under examination. However, following observations are made:-

(i) It is observed that Hon'ble Apex Court in Munshi Ram case has primarily considered the provisions of para Rule 14 (v) and (xiv) and Rule 24 of the Railway Services (Pension) Rules-1993. Above Rule reads as follows:

"14. Periods which shall not be treated as service for pensionary benefits-Periods of employment in any of the following capacities shall not constitute service for pensionary benefits, namely,-

(v) under a covenant or a contract which does not specifically provided for grant of pensionary benefits,

(xiv) on contract basis except when followed by confirmation.

24. Counting of service on contract. (1) A person who is initially engaged by the railways on a contract and is subsequently appointed to the same or another post in a substantive capacity, without a break in service, such contract period of service shall be treated like any other permanent service in the railway and be taken into account for calculating for the pensionary benefits, subject to the conditions laid down in these rules"

(ii) While deciding the cases in favour of the commission vendors, Honble Courts have not found any provision of Railways rules as *ultra vires* which would necessitate a retrospective implementation of judgment in favour of all similarly situated commission vendors. In fact the directions passed even in Munshi Ram case are for implementation in favour of the petitioners/commission vendors of NR alone.

(iii) The implications of general implementation would tantamount to holding an employment purely on commission basis as equivalent to service. Further, there may be possibility of genuine old records not being available even to verify the actual engagement period and there may be bogus claims (even from purported widows/children for retirement benefits/pension etc.)

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(iv) As may be observed that the provisions of Rule 14 are restrictive in nature. Thus from the phrase "*Periods of employment in any of the following capacities shall not constitute service for pensionary benefits on contract basis except when followed by confirmation*", it may not necessarily imply that every employment on contract when followed by confirmation would qualify as service for pensionary benefits. To become entitled to pensionary benefits there should necessarily be facilitating clause which would specify the terms and conditions for such counting of service. However, the facilitating clause does not talk about '**employment**' but appointment in '**the same or another post**'. It would imply that for consideration of employment on contract basis for pensionary benefits, the concerned person should have held '**same or another post**'. As per the practice followed in Government of India, various posts have a minimum and a maximum of pay which is admissible while holding the post. Statutory Railway Service (Revised Pay) Rules as issued from time to time prescribe such minimum and maximum through gazette notifications. It is always stipulated normally in Rule 4 of the RS(P) Rules at the time of revision of pay scales that as from the date of commencement of rules, the scale of pay of every post shall be as specified in the schedules annexed to above rules. Thus engagement of Commission vendors on commission basis was not equivalent to holding a post which is against a pay scale as notified through statutory RS(P) Rules as in force during the relevant period. Accordingly, **there would not be any eventuality of commission vendors holding the same or another post after and before absorption**. This fact does not seem to have been properly projected before the Courts and taken into consideration by the courts.

(v) As regards, the date of effect of any judgment, while the parties in any individual case are governed by the final judgment in the case, for other subsequent sets of applicants, the nature of the judgment may govern its date of effect. If the courts have declared any provision of service rule as *ultra vires*, normal impact would be to grant service benefit as if the rule never existed. However, in the instant matter, situation seems different. As per principles often followed by Courts, a subsequent litigant can not claim benefit of arrears from the same retrospective date from which some other litigant, who was involved in long drawn legal proceedings, got. In such situations, courts often restrict the benefit of arrears to last three years before filing of the case keeping in view the limitation aspect. The concept thus appears applicable in the instant cases of the fresh applicants.

(vi) As there is likelihood of such cases being filed for the period for which even authentic documents may not be available with the Railways, the burden of proof should lie on the applicants to produce authentic records. Railway should diligently check the authenticity of such records as produced by the petitioners and should bring to the notice of courts and contest the claim on this aspect also.

2. Keeping in view the above observations, Railway may explore the feasibility of contesting pending court cases in consultation with their legal cell/ASG etc.

3. In cases, where despite the best of efforts, Railway is not able to get relief from the concerned court and there is likelihood of extreme coercive action, the matter may be submitted to the GM for his decision in the individual court case.



(U.K. Tiwari)
Director Estt. (N)
Railway Board