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In the Central Administrative Tribunal
Principal Bench: New Delhi
OA No.1186/89 Date of decision:05.01.1993.

Shri Uma Shanker Chaubey & Others ...Petitioners
Versus

Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi & Another ...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioners Shri S.K. Sawhney, Counsel.
For the respondents None

Judgement(Oral)

Shri Uma Shanker Chaubey and others listed below:-

Inder Bhushan Kaushik

Rajpal Singh

Ram Prasad

Veerpal Singh

Shivdhan Singh

Shiv Dayal

Charan Singh

Ramu Sharma

Banwari Lal Yadav

Ram Nath Gupta

R.P. Yadav R.K. Yadav

Hari Chand

Vijay Pal Singh

Harpal Singh

Sardari Lal

Sant Ram

R.C. Anand

corrected by court order
at 9:55 AM on 20/2/93
Jewell
SC 281815

H.C. Bharty

P.D. Sharma

Fateh Islam Siddique and

Tilak Raj

working as Guards on the Pilot Goods Train in Delhi Area have jointly filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985. They were entitled to drawal of running allowance in accordance with the Railway Board letter No.E(R)50RS/9 dated 5.4.1952 at the following rates:-

"First 10 miles at 4 times the ordinary mileage the second 10 miles at 5 times the mileage & the rest at 6 times the mileage."

These orders were modified vide Railway Board's order No.E(P&A)-II-75/RS-3 dated 26.10.1979. The said order provided that after careful consideration the Ministry of Railways have decided that there was no justification to continue to pay mileage allowance at the inflated rates to the Guards working in the Delhi area and DelhiGhaziabad Section and, therefore, the same should be stopped forthwith. The orders of the Railway Board further stipulated that in order to avoid any hardship the existing Guards of Delhi area who are already enjoying this facility may be allowed to continue to enjoy this benefit as personal to them so long as they work in that area; Guards inducted in the Delhi area in future being paid mileage allowance under the normal rules as applicable to the Loco Running Staff. The petitioners case is that they have been working on the goods trains running between station to station in Delhi area from various dates earlier to 26.10.1979 - the date on which the inflated rates of running allowance were made personal to the existing Guards in Delhi area and, therefore, they continue to be entitled

to the inflated rates of running allowance. The said inflated rates of running allowance, however, has been withdrawn from the petitioners vide letter dated April, 1989 (Annexure A-1 to the OA) with immediate effect. It is in this background that the petitioners have approached the Tribunal, praying that the respondents be directed to continue to pay the running allowance to the petitioners at inflated rates in terms of Rule 905 (v) of Indian Railway Establishment Manual and that the impugned order of April, 1989 (Annexure A-1) may not be applied in the case of the petitioners, as the benefit of the inflated rates continues to subsist in their favour as personal to them in terms of Railway Board's order of 26.10.1979.

2. The respondents in their counter-affidavit have submitted that the petitioners were employed in the year 1979 as goods guards in the Delhi Division. They have not denied that they were employed in the area prior to 26.10.1979. They have also taken the stand that the petitioners had filed a representation on 13.4.1989 with the respondents and the matter is still under the consideration of the respondents vide Annexure R-1 which is said to be a copy of the letter No.115-P/Confld./PA/RS/81 dated 10.5.1989. The said annexure, however, has not been filed along with the counter affidavit. The respondents have not placed any material on record to indicate that the Railway Board have withdrawn/cancelled/modified the orders dated 26.10.1979 which conferred the benefit on the petitioners as personal to them. There was also none present on behalf of the respondents to let us know the updated position in regard to the disposal of the representation of the

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petitioners, which was said to be under consideration as per their letter dated 10.5.1989 (not placed on file).

3. In the above facts and circumstances and in absence of any material, indicating the revision of the policy of the Railway Board, as laid down in their letter dated 26.10.1979 I have no alternative but to allow the petition with the direction to the respondents to continue to pay the running allowance at the inflated rates, as provided for in Railway Board's letter dated 26.10.1979 as personal to them as long as they continue to work in Delhi area. The respondents are further directed not to apply the orders issued vide Annexure A-1 to the petitioners who are working in Delhi area from dates prior to 26.10.1979. No costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)