

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1882/91

New Delhi, this the 7th day of August, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri K. Muthukumar, Member (A)

1. V.S. Mishra,
s/o Late Shri M.L. Mishra,
R/o Railway Quarter D-29,
Near Loco Shed,
Agra Cantt.
2. O.P. Kanchan,
s/o Sh. Sita Ram Kanchan,
r/o Railway Quarter F-54,
Near Loco Shed,
Agra Cantt.
3. R.S. Sharma s/o Sh. B.S. Sharma,
Loco Foreman,
Loco Shed, Dholpur,
r/o Naripur, Agra Cantt. ...Petitioners

(By Advocate: Shri K.N.R. Pillai)

Versus

Union of India through

1. The Secretary,
Ministry of Railways,
(Railway Board),
New Delhi.
2. The General Manager,
Central Railway,
Bombay, V.T.
3. The Divisional Railway Manager,
Central Railway,
Jhansi. Respondents

(By Advocate: Shri H.K. Gangwani)

O R D E R (ORAL)
[Dr. Jose P. Verghese, Vice-Chairman (J)]

Petitioners in this case were directly recruited as Technical Supervisor in the Mechanical Department of Railways and subsequently after the 4th Pay Commission's report came up, the revised pay was

fixed to different categories of persons including that of the petitioners. While fixing the revised pay, the petitioners noticed that some of the juniors were getting higher salary than what they were getting. Petitioners filed representation claiming stepping up of salary qua to that of their juniors.

In reply to the said claim, the respondents came forward with the defence that as per the Railway Board's letter dated 16.9.1988, stepping up of pay could not be allowed to any personnel other than those belonging to Running Staff appointed as Loco Running Supervisors and in whose cases 30% of basic pay is taken as an additional pay and allowance. When these Loco personnels were appointed as Supervisors, 30% of the basic pay happened to be added to their promoted post while fixing the pay for the purpose of fitment into the revised scale as per the Fourth Pay Commission's Report. Petitioners in this case have challenged the vires of Railway Board's letter dated 16.9.1988 stating that the respondents have given this benefit to a number of other persons who are not part of the Running Staff nor belonging to Loco Running Supervisors. It was also contended that when the mechanical side and the loco running staff cadres have been merged and in the circumstances, the benefits given to their juniors need to be given and shall not be denied to the petitioners only on the ground that the petitioners do not belong to Loco Running Staff.

It was also an admitted position that initially the respondents had fixed the salary of various personnels inclusive of this running allowance

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of 30% of the basic pay and also to the non-running staff as well and when subsequently these orders were withdrawn stating that the said fixation of the pay for the purpose of applying the revised scale is wrong, cancelled those pay fixation and a number of petitions were filed in this Tribunal at different benches and it was stated that almost all of them have been allowed and the SLP filed against them have also been dismissed. In the circumstances, the benefits given to those similarly placed persons are also duly available to the petitioners, is the case of the petitioners.

We see considerable force in the submission of the petitioners and since almost all the petitioners have retired, there is no question of payment of arrears. The respondents are, in the circumstances of the case, directed to fix the pay as the last pay drawn notionally after giving the benefit of stepping up as given to those petitioners in the above stated OAs, and pay fixation may be made according to law to disburse the revised pension from the date of superannuation. It goes without saying that the petitioners will be entitled to arrears of pension in accordance with Rules. In case of the petitioners who are not retired, this order will apply prospectively for the purpose of pay fixation.

In these terms, this OA is allowed to the extent stated above. There shall be no order as to costs.


(K. Muthukumar)
Member (A)
naresh


(Dr. Jose P. Verghese)
Vice-Chairman (J)