

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

....

Original Application no. 1163 of 1994.

this the 22nd day of May 2001.

Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mr. SKI Naqvi, Member (J)

1. Ram Nashtara, S/o late Sri Rajbhansi Yadav.

2. Ram Chandra, S/o late Sri Havaldar.

3. Jagar Nath Ist S/o late Sri Naga.

4. Ram Lal, S/o late Sri Dukkhi.

5. Moharram, S/o late Sri Mahanzi.

6. Singhasan Misra, S/o late Sri Raghu.

7. Ram Bachan, S/o late Sri Jagrup.

8. late Bandhan Yadav, S/o late Sri Sahadeo Yadav.

9. late Ram Badan Yadav, S/o late Sri Dukki through
Smt. Pyari.

10. Mannar S/o late Sri Bhagwan.

Applicants.

By Advocate : Sri S.K. Misra.

Versus.

Union of India through Chairman, Railway Board, New Delhi.

2. G.M., N.E.R., Gorakhpur.

3. Senior D.P.O., N.E.R., Varanasi Division, Varanasi.

Respondents.

By Advocate : Sri Lalji Sinha.

With

Original Application No. 54 of 1996.

Ram Prasad Pandey, S/o Sri Ramarash Pandey, Driver Grade-A,
Village Phoolpur Post Kurebhar, District Sultanpur.

Applicant.

By Advocate : Sri S.K. Misra.

Versus.

1. Union of India through Chairman, Railway Board,
New Delhi.
2. G.M., N.E.R., Gorakhpur.
3. Senior D.P.O./D.R.M., N.E.R., Division Izzatnagar.

Respondents.

By Advocate : None.

With

Original Application No. 161 of 1996.

1. Raghunath Prasad, S/o late Sri Jagjiwan Lal
Jiut, S/o late Sidhoo.
2. Riaz Ali, S/o late Maula Bux.
3. D. Frank, S/o late S. Frank.
4. Bechan-II S/o late Doman.
5. Ram Saran Upadhyay, S/o Mahabir Upadhyay.
6. T. Robinson, S/o R. Robinson.
7. Asarfi, S/o late Sri Santoo.
8. Y.M. Cline, S/o Clien.
9. Ramdutt, S/o Ram Swan.

Applicants.

By Advocate : Sri S.K. Misra.

Versus.

1. Union of India through G.M., N.E.R., Gorakhpur.
2. D.R.M. (P), N.E.R., Ashok Marg, Lucknow.

Respondents.

By Advocate : Sri Lalji Sinha.

O R D E R (ORAL)

S. DAYAL, MEMBER (A)

This bunch of three O.As has been filed for a direction to the respondents to refix the retiral benefits of the applicants reckoning the running allowance of 75% of their pay with arrears of retiral benefits.

2. The applicants in O.A. no. 1163 of 1994 retired on 28.2.87, 31.10.86, 30.6.79, 31.3.86, 31.1.86, 30.3.82, 30.6.81, 30.6.81, 31.12.81, 1.7.75 respectively on the posts of Driver Grade 'A', 'B' 'C' and Shunter. The applicants were being paid the retiral benefits reckoning the running allowance @ 55% of their pay. They claim to have known about the judgment in O.A. no. 623 of 1990 of Allahabad Bench of the Tribunal in which it was held that the applicants are entitled to 75% of running allowance to be reckoned for determining their pay for retiral benefits, hence, they have filed this O.A.

3. The applicant in O.A. no. 54 of 1996 retired on 31.10.86. He has also sought the same relief on similar grounds as in the case of the applicants referred to above.

4. The applicants in O.A. no. 161/96 retired on 31.10.84, 30.6.77, 17.1.83, 31.7.88, 31.3.82, 31.7.84, 31.1.85, 28.2.82 31.3.85 and 24.6.85 respectively. The applicants had applied to Pension Adalat held in the year 1995 for granting them pension after taking into account 75% of running allowance. Their representations before the Pension Adalat were rejected in the year 1995, hence the applicants have approached this Tribunal.

5. The learned counsel for the applicants, has drawn our attention towards the provisions of the Rules 2544 (g) (i), 2544 (g)(II), 507, 1302(5) provision II 1309 and Rule 2003(2) of the Indian Railway Establishment Code Vol. I and II which are statutory in nature. The running allowance to be taken for the purposes of computing the retiral benefits to be the minimum of 75% of the basic pay. The learned counsel for the applicants has also relied-

upon the decision in the case of Chairman, Railway Board and Others Vs. C.R. Rangadhamaiyah & Others (JT 1997 (7) SC 180) it which it was held that the amendments introduced in Rule 2544 by the impugned notification dated December 5, 1988 inasmuch as the maximum limit has been reduced from 75% to 45% for the period from January 1, 1973 to March 31, 1979 and to 55% from April 1, 1979 onwards was struck-down by the Full Bench of the Tribunal holding that the amendment that were made in Rule 2544 by the impugned notification dated December 5, 1988 to the extent the said amendments have been given retrospective effect so as to reduce the maximum limit from 75% to 45% in respect of the period from January 1, 1973 to March 31, 1979 and reduce it to 55% in respect of the period from April 1, 1979 are unreasonable and arbitrary and are violative of the rights guaranteed under Articles 14 & 16 of the Constitution. Thus, the matter stood settled and the applicants were declared to be entitled to re-calculate the retiral benefits taking into account the Running allowance @ 75% of pay. The respondents are directed to grant the benefit to all the applicants on the basis of law laid down by the apex court as mentioned above, within a period of three months from the date of communication of this order.

6. All the three O.As stand disposed of as above with no order as to costs.