

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 30th day of January, 2004.

Original Application No. 873 of 1997.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member-A.

1. Ashek Kumar Tiwari S/o Sri H.N. Tiwari
a/a 35 years, R/o 740/651,
Malviya Nagar, Allahabad.
2. Baldaudi Malviya S/o Late Hari Shankar Malviya
a/a 38 years, R/o 740/651, Malviya Nagar, Allahabad.

.....Applicants

Counsel for the applicants :- Sri S.S. Sharma

V E R S U S

1. Union of India owning and representing
Northern Railway notice to be served to the
General Manager, Northern Railway,
Headquarters Office, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, DRM Office,
Nawab Yusuf Road, Allahabad.
3. The Senior Electrical Engineer/RSO,
Northern Railway, DRM Office, Allahabad.

.....Respondents

Counsel for the respondents :- Sri Prashant Mathur

O R D E R

Hon'ble Mr. Justice S.R. Singh, V.C.

The applicants being Engine Cleaner were put to
officiate, as per the allegation made in the O.A, as
Second Fireman/Assistant Electrical Driver and on that
basis they have instituted this O.A under section 19
of Administrative Tribunals Act, 1985 for issuance of
a direction to the respondents to pay them the higher
(Signature)

grade of Rs. 950-1500 (RPS), 30% extra of basic pay with allowances thereon, mileage allowances, night allowances and over-time etc. as per para 913 (iii) of Indian Railway Establishment Manual (IREM) Vol. I revised addition 1989 since July 1982. Interest at the rate of 18% per annum compounded annually on the amount due to the applicants in this regard from the date it was due to them has also been claimed.

2. Learned counsel for the respondents has submitted that the applicants being Engine Cleaner do not come within the purview of "Running Staff" as defined in para 902.2 (iv) of I.R.E.M. Learned counsel for the respondents has also disputed the factum/assertion made in the O.A that the applicants had performed the running duties and/or were put to officiate as Second Fireman/Assistant Electrical Drivers for which alone the running allowance is required to be enhanced by 30% of kilometerage actually performed. Sri Mathur has also submitted that para 913 provides for the officiating allowance to the "Running Staff" and the applicants do not come within the purview of the "Running Staff" and, therefore, they are not entitled to get the benefit of para 913 of IREM.

3. We have given our anxious considerations to the submissions made across the Bar. With view to appreciating the submissions made by the learned counsel, we consider it necessary to quote paragraph 913 as under :-

"(i) The officiating allowance in respect of running staff officiating in running post shall be regulated as under :-

(a) When running staff are put to officiate in a 'running post' for 30 days or less, they shall be entitled to pay as admissible in the lower grade plus Running Allowance at the rates and on the condition applicable

Q29

to the higher grade in which they officiate enhanced by 15% (except in the case of Second Firemen put to officiate as Second Firemen and Engine Cleaners put to officiate as Second Firemen for whom the enhancement will be by 30% of the kilometerage actually performed for such higher grade.

(b) When running staff are put to officiate in a 'running post' for more than 30 days, their pay in the higher post shall be fixed under the normal rules.

(ii) (a) When running staff are put to officiate in a stationary post for more than 30 days, their pay will be fixed on the basis of their pay in the lower post plus 30% thereof representing the pay element of the Running Allowance.

(b) The fixation of pay of running staff put to officiate in a stationary post for a period of 30 days or less, shall continue to be regulated in terms of para 911 (ii) (a) of Indian Railway Establishment Manual.

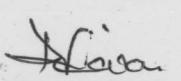
(iii) In cases where the officiating arrangement is initially approved for period exceeding 30 days the normal rules of fixation of pay will apply, where the period is initially for 30 days, the enhanced kilometerage allowance drawn upto 30 days should be allowed to stand but payments for periods beyond 30 days should be in accordance with the rules for normal fixation of pay on promotion. "

4. The term "Running Duties" is defined in paragraph 902 of I.R.E.M to mean duties directly connected with the movement of trains and performed by the running staff while employed on moving trains or engines including shunting engines; and the expression "Running Staff" performing "running duties" shall refer to Railway Servants of the categories mentioned in clause IV of paragraph 902 of IREM; Cleaners do not come under the category of "Running Staff" as defined in clause IV of paragraph 902 of the IREM. However, the expression 'except in the case of Second Firemen put to officiate as

Q4D

as First Firemen and Engine Cleaners put to officiate as Second Firemen category' occurring in clause (a) of paragraph 913 (i) of IREM suggests that if Engine Cleaners are put to officiate as Second Firemen/Assistant Electrical Drivers, they will come within the purview of "Running Staff" for the reason that Firemen are included within the definition of Running Staff. In case the applicants had performed running duties in the sense that they were put to officiate as Second Firemen/Assistant Electrical Driver for specified period they would be entitled to officiating allowance as provided in paragraph 913 of IREM. The question whether the applicants were actually put to perform the duties of Second Firemen/Assistant Electrical Drivers and had performed the running duties is a question which requires to be determined by the competent authority after considering such materials and evidence as may be produced by the applicants in support of their claim.

5. Accordingly the O.A is disposed of finally with a direction to the competent authority that in case the applicants file a representation staking their claim, the competent authority shall consider and decide the representation by speaking and reasoned order to be passed and communicated to the applicants after giving personal hearing within a period of three months from the date the representation is filed. The decision shall be taken in accordance with law and in the light of observations made in the judgment. No costs.


Member- A.


Vice-Chairman.

/Anand/