

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 963 OF 2004

ALLAHABAD, THIS THE 31<sup>st</sup> DAY OF AUGUST, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. Raghu Nath Prasad, Ex-Driver 'A'  
s/o Jag Jiven Lal, r/o H.No.D-370  
Shakpur Awas Vikas Colony  
District-Gorakhpur.
2. Bismillah Ex-Driver-A  
s/o Dildar, r/o Mohalla Zahidabad,  
P.O. Gorakh Nath Mandir,  
District-Gorakhpur.
3. Smt. Mahruddin Nisha,  
w/o Late Zibiullah Ex-Driver-C  
r/o Mohalla Humayupur (North),  
Kasai Bara, District-Gorakhpur.
4. Asarfi, Ex-Driver-B  
s/o Late Santoo,  
r/o Village Ghawanpur Post Pipiganj,  
District- Gorakhpur.

.....Applicants

(By Advocate : Shri S.K. Mishra)

V E R S U S

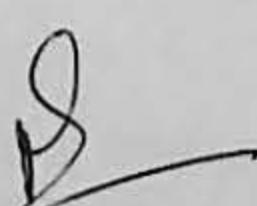
1. Union of India through Chairman,  
Railway Board, Rail Bhawan, New Delhi.
2. General Manager, North Eastern Railway,  
Gorakhpur.
3. Senior Divisional Accounts Officer,  
Lucknow Division, North Eastern Railway,  
Lucknow.

.....Respondents

(By Advocate : Shri K.P. Singh)

O R D E R

By this O.A. applicant has sought the following  
reliefs:



....2/-

"(i) to issue any order or direction to the respondents not to make any more recovery from the pension of the petitioner pursuant to the judgment/order dated 22.01.2002 of the Principal Bench, Central Administrative Tribunal New Delhi.

(ii) to issue any order or direction to the respondent No.2 to refund the amount recovered from the pension of the applicant pursuant to the new PPO issued in confidence with the RBE 318/99 dated 29.12.1999.

(iii) to issue any order or direction to the respondents to implement the direction issued by the Central Administrative Tribunal, Principal Bench, New Delhi in its order/judgment dated 22.01.2002.

(iv) Any order or direction as this Hon'ble Tribunal may deem fit and just in the circumstances of the case."

2. It is submitted by the applicant that pursuant to the letter dated 29.12.1999 pension of Rs.396/- retired running staff had been reduced and recovered of over payment <sup>of</sup> ~~wall~~ drivers ~~for~~ being made by the respondents. Some of the Guards and ~~L~~ had approached Principal Bench by filing G.A. No.2425/2000 which was allowed on 22.01.2002 (Pg.26 at 37) whereby Railway Board's letter dated 29.12.1999 was quashed and set aside and it was further held as under:-

"From the narration given in the counter reply regarding the details of calculations, it is clear that the running allowance of 75% was taken into consideration for computing average emoluments of pension only in the first instance at the time of fixing their pension on their retirement before 1986. Thereafter, the element of running allowance has not been taken into consideration by the respondents for purposes of calculation of pay of the applicants on a notional basis as on 01.01.1986 and thereafter has also been computed on wrong hypothesis.

Having regard to the discussion made above, we find that it is obligatory on the part of the respondents to update the pay of the applicants as if they were



in service on 01.01.1986 on a notional basis and then calculate their pension as on 01.01.1986. For this purpose, as per the relevant instructions, they will take into consideration the average emoluments on the basis of their average pay, DA DP and IR which the applicants were drawing at the time of their retirement and 20% of the basic pay without reckoning the running allowance of 70%. After fixing the notional pay in this manner as on 01.01.1986 they will add the element of 75% of running allowance. The sum so arrived at shall form the basis for fixing pension as on 01.01.1986, as per relevant rules and instructions. Accordingly we quash and set aside the impugned RBE No. 318/99 dated 29.12.1999 (Annexure R-8) and direct the respondents in terms of the observations made above. The respondents shall also refund the recoveries made, if any and if due, from the pension of the applicants on reduction in their pension. The respondents shall implement these orders within a period of three months from the date of communication."

3. It is submitted by the applicants that after getting a copy of the judgment, applicants gave a representation to the Senior Divisional Accounts Officer, Lucknow Division, Lucknow, NER praying therein to refund the amount already recovered from applicants pension in terms of judgment given by Principal Bench in O.A. No.2425/2000. Copy of the representation has been sent to the General Manager, East, Northern Railway, Gorakhpur as well. But till date neither any reply has been given to them nor recovery has been stayed. Therefore, they have no other option but to file the present O.A.

4. Counsel for the respondents was seeking time to file reply. However, since grievance of the applicants in this case is that respondents have not even applied their mind to



the grievance set out by them in their representations as well as the judgment given by Principal Bench as referred to above. Therefore, I do not think it is necessary to call for any counter at this stage. It would be better if respondent No.2 is directed to apply his mind to the facts as narrated by the applicant in this O.A. as well as his representation and then to pass a reasoned and speaking order within a period of 3 months from the date of receipt of a copy of this order under intimation to the applicant.

5. With the above directions, this O.A. is disposed off at the admission stage itself with no order as to costs.



Member (J)

shukla/-