

(Reserved)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Dated, Allahabad, this 2nd March 2001.

CORAM : Hon'ble Mr. V.K. Majotra, Member (A)
Hon'ble Mr. Rafiq Uddin, Member (J)

Original Application No. 216 of 1993

1. Durga Prasad S/o Sri Lolai
2. Ram Narain S/o Sri Nankoo
3. Bindeshwari Singh S/o Sri Babu Gauri Singh
4. Akhlak Ahmad S/o Sri Mohiullah
5. Baij Nath S/o Sri Shyam Deo
6. Ayodhya Prasad S/o Sri Baba Deen
7. P.P.Lal S/o Sri R.K.Lal
8. Ganesh Shankar Singh S/o Sri Devi Prasad Singh
9. Heera Lal II S/o Sri Jodhan Lal
10. Jagdish Singh S/o Sri Bal Govind Singh
11. Sri Ram Pandey S/o Sri Raj Narain Pandey
12. Sukhnandan Pandey S/o Sri Jag Narain Pandey
13. Mohd. Yunus S/o Sri Mohd. Yusuf
14. Rashid Ahmad S/o Sri Shakshar Khan
15. Sangam Lal S/o Sri Shiv Prasad
16. Heera Lal I S/o Sri Sada Nand
17. Banshi Lal S/o Sri Mata Palat
18. Mahendra Singh S/o Sri Anuj Singh
19. A.K.Datta S/o Sri Upendra Nath Datta
20. Ramesh Prasad S/o Sri Jageshwar Prasad
21. Nokhey Lal S/o Sri Baba Deen
22. Mitthoo Lal S/o Sri Lahur
23. Vinod Smith S/o Sri V.R.Smith
24. Jamuna Prasad S/o Sri Ram Daresh
25. Mata Deen S/o Sri Jai Ram
26. Rajendra Prasad S/o Sri Raghu Nath
27. Bansh Narain S/o Sri Hanuman Prasad
28. Nasharat Ullah S/o Sri Shukurullah
29. P.K.Srivastava S/o Sri Jagdish Prasad
30. Monohar Lal S/o Sri Jagdamba Prasad
31. Doob Lal S/o Sri Khyali
32. Mewa Lal S/o Sri Moti Lal
33. Kallo Singh S/o Sri Ram Singh

All Diesel Drivers in Loco Shed, Chunar under Loco Foreman
All from 27 to 33 are Shunter in Loco Shed
Chunar under Loco Foreman Northern Railway, Chunar

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34. Shiv Lakhan Sharma S/o Sri Bhola Nath Sharma
35. Mohd. Haroon S/o Sri Shafi Ullah
36. Ram Janam Singh S/o Sri R.R. Yadav
37. O.P. Maurya S/o Sri P.D. Maurya
38. Nand Lal Yadav S/o Sri Babu Nandan
39. Ram Raj S/o Sri Ram Khelawan
40. Asha Ram Pandey S/o Sri A.P. Pandey
41. Sampoorna Nand Pandey S/o Sri Banarasi Pandey
42. Ram Briksh S/o Sri Subhag
43. Rai Bahadur Pandey S/o Sri Hari Shankar Pandey
44. O.P. Khariha S/o Sri Krishna Khariha
45. A.K. Sinha I S/o Sri Ram Lakhan
46. Mohd. Abbas S/o Sri Manjoor Ahmad
47. Lal Chand Pandey S/o Sri Mata Prasad Pandey
48. R.P. Chhabara S/o Sri Pyare Lal Chhabra
49. Tarak Prasad Srivastava S/o Sri S.S. Lal Srivastava
50. Istyak Ahmad S/o Sri Mohiullah
51. Raghunandan Prasad S/o Sri Brat Prasad
52. Shankar Prasad S/o Sri Shiv Ratan
53. B.K. Bosh S/o S.L. Bosh
54. P.B. Belfore S/o Sri Vilson Belfore
55. Prem Chand S/o Sri Sopari
56. Shrikant Singh S/o Sri Ram Naresh Prasad
57. Ram Adhar S/o Sri Shiv Nath Prasad
58. Gyan Chand S/o Sri Hiranman Ram
59. Ram Bilash Singh S/o Sri Mohan Singh
60. Bal Mukund S/o Sri Sarajoo
61. Shiv Dayal S/o Sri Raghunandan
62. Gopal Yadav S/o Sri Baiju Ram Yadav
63. Ghanshyam Rai S/o Sri Pati Rai
64. Om Prakash Singh S/o Sri Dilip Singh
65. K.D. Lal S/o Sri Sahjanand Lal
66. Ram Kishun S/o Sri Jhoori Ram
67. Ajai Kumar Singh S/o Sri Ram Kripal Singh
68. A.K. Sinha II S/o Sri P.N. Sahai
69. Chhote Lal S/o Sri Nanhkoo
70. Ashwani Kumar Srivastava S/o Sri Gopal Ji Srivastava
71. Raj Nath Yadav S/o Sri Brahmachari
72. Om Prakash S/o Sri Ram Naresh
73. Lal Ji S/o Sri
74. B.K. Rai S/o Sri Ram Ashish Rai

All are from 34 to 74 Diesel Assistant,
Under Loco Foreman, N.Rly, Chunar

..... Applicants

Counsel for applicants : Shri Sajnu Ram
Shri R.K. Saxena
Shri P.L. Kashyapa

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V E R S U S

1. Union of India, through Chairman,
Railway Board, Rail Bhawan, New Delhi
2. Divisional Railway Manager, Northern Railway,
Allahabad
3. Sr. Divisional Mechanical Engineer, Northern Railway,
Allahabad
4. Loco Foreman, Northern Railway, Chunar

.....Respondents

Counsel for the Respondents : Shri G.P. Agarwal

O R D E R

(Reserved)

(Order by Hon'ble Mr. Rafiq Uddin, M(J))

The applicants have approached this Tribunal for seeking directions to be issued to the Respondents to pay them Running Allowance of 309 k.m. per trip in the Chunar-Chopan section of Allahabad Division of Northern Railway as per direction of the Railway Board contained in letter No.E(P&A) II-80/RS-10 dated 17.7.1981 and para 992 of Railway Establishment Manual (REM).

The applicants No.1 to 26 are Diesel Drivers, applicants No.27 to 33 are Shunters and applicants No.34 to 74 are Diesel Assistants working in the Northern Railway of Allahabad Division and are posted at Chunar.

The applicants claim that Chunar-Chopan section of Northern Railway of Allahabad Division is a Class II Ghat Section. The speed of trains at Ghat Section is slow due to up and down gradient of the Railway lines and Railway running staff working on slow moving trains is entitled to inflated rate of kilometerage. It is claimed that running staff of Chunar-Chopan section had been paid Allowance for 309 k.m. treating it Ghat section from 1952 to 1981, being 3 times the actual distance of Chunar-Chopan i.e. 103 k.m. Accordingly the running staff viz. Guards, Drivers, Diesel Assistants, Shunters etc. had been given the benefits of Ghat section by allowing them

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allowance of 309 k.m. till 2.9.1981. But after 21.7.1982 the Respondents have stopped making payment of the running allowance at the aforesaid rate in arbitrary manner and the applicants who are running staff are being allowed only running allowance for 147 k.m. from 22.7.1982 to 21.5.1983 and from 22.5.1983, onwards. The running staff has been allowed running allowance for 170 k.m. per trip in the section in question. It is also alleged that with effect from the month of February, 1992 the Respondents again deducted 34 k.m. from 170 k.m. and started paying running allowance @ 136 k.ms. per trip to the applicants. From 1992 the Respondents are being paid running allowance for 136 k.ms. per trip whereas Guards are getting running allowance of 170 k.m. per trip as usual and thus the Respondents have made discrimination in paying running allowance to the applicants vis-a-vis Guards and Firemen. The applicants now claim running allowance for 309 k.m. per trip in the section in question.

The Respondents in their C.A. have denied that the section in question i.e. Chunar-Chopan has been categorised as Ghat section because it does not fulfill necessary conditions required to classify as Class II Ghat section according to Railway Board letter dated 17.7.1981 mentioned by the applicants in their O.A. It is stated that since section in question has ruling gradient 1 in 41 to 1 in 80 in the distance of 32.86 k.m. only out of the total distance of 103 k.m., the section in question cannot be classified as Class II Ghat section as claimed by the applicants.

We have heard Shri Sajno Ram, Learned Counsel for the applicants and Shri G.P. Agarwal, Learned Counsel for the Respondents.

In order to understand the controversy involved in this O.A. it is necessary to refer to the relevant instruction

issued by the Railway Board from time to time on the subject. The Railway Board had set up a Running Allowance Committee (RAC) for considering the norms for payment of Running Allowance to the Railway employees. We find from the perusal of the contents of the Railway Board letter dated 17.7.1981 referred to above that the Railway Board after considering the report of the RAC took some decisions on the question of payment of running allowance which are indicated in para 3 of this letter. The relevant provisions of this letter contained para 3.21 are reproduced as under :

3.21. Ghat Sections.

- (1) The following criteria will be adopted for declaring a section as Ghat Section for the purpose of payment of running allowance on the basis of computation as indicated in sub-para (11) below :
 - (a) The ruling gradient of a section will be the determining factor.
 - (b) Sections with a ruling gradient of 1:40 or steeper will be classified as Class I Ghat Section and those with a ruling gradient of 1:80 or steeper but less than 1:40 will be classified as Class II Ghat Section.
 - (c) The distance between two adjacent block stations will be treated as a section for this purpose.
 - (d) The total length of the stretches in such a section having the gradients specified in (b) above should be at least one-third of the length of the section concerned.
- (11) Computation of kilometrage for the purpose of payment of running allowance to the running staff working trains on a Ghat Section, will be made on the following basis.
 - (a) In the case of running staff working trains on all Ghat Sections, where the banker is actually employed in assisting the train, the computation of kilometrage will be five times the actual distance travelled.

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- (b) In all other cases (including those where the banking engine is run as a light engine or assistance not required) the computation will be five times the actual distance in the case of Class I Ghat section and three times the actual distance in the case of Class II Ghat Station (Para 1067)."

It appears that in view of definition of 'Ghat Section' for regulating payment of inflated kilometrage given in para 3.21 (cited above) some sections which were earlier classified for inflated kilometrage under the rule were de-classified and as a result the running staff of such Sections was not found eligible for payment of inflated kilometrage. Therefore, the Board reconsidered the matter in view of representation made by the running staff and it was decided that in the Ghat Section which were de-classified partly or fully in terms of para 3.21 of the Board letter dated 17.7.1981 the provision were relaxed and it was decided that the kilometrage may be paid at the double the actual kilometrage as a very special case in the Ghat Sections which were included in the Annexures to the Board letter No.F.(P&A)II/88/RS-14 dated 19.12.1989. This letter is reproduced as under:-

"Sub: Ghat Sections-Admissibility of Ghat Allowance-regarding :

The staff side in the Departmental Counsel of the Joint Consultative Machinery have been representing from time to time that the definition of Ghat Sections for regulating payment of inflated kilometrage in para 3.21 in the new Running Allowance Rules, introduced in Board's letter No.E(P&A)II-80/RS-10 dated 17th July, 1981, has resulted in some hardship to the running staff, in as much as many Ghat Sections which qualified for inflated kilometrage under the earlier rules have been now declassified.

2. The matter has been considered by the Board, keeping in view the submissions of the staff side. The Board have decided that para 3.21 of the Running Allowance Rules, referred to above, does not call for any change or liberalisation as the new Running Allowance Rules have introduced

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a measure of stability and uninformaty in regard to definition of that Section over the last 8 years. In the circumstances, de-classification of a few erstwhile ghat sections, under the earlier rules, was an unavoidable consequence.

3. However, keeping in view the view points by the Staff Side, the Board have decided that in the Ghat Sections, included in the Annexure to this letter which were declassified, partly or fully, on the introduction of the new Running Allowance Rules, kilometrage may be paid at double the actual kilometrage shown therein, as a very special case, i.e. relaxation of para 3.21 of Board's letter of 17th July, 1981 referred to.

4. This has the approval of the President and issues with the concurrence of the Finance Directorate of the Ministry of Rlys.

5. These orders will take effect from 1.1.1990.

6. Kindly acknowledge receipt."

It is relevant to mention, that in the Northern Railway only 32.86 length has been declared as Special Ghat Section on 'Chunar-Chopan' Section in the Annexure to the aforesaid Railway Board letter.

It is evident that the running Railway staff working in Chunar-Chopan Section was being paid running allowance at inflated kilometrage from the year 1952 to 2.9.1981 treating this Section as Ghat Section under previous rules. However, after coming into force the aforesaid new running allowance rules, which were introduced in Board's letter dated 17.7.1981 referred to above the Ghat Section in question was de-classified as Ghat Section because it does not come within the criteria adopted and mentioned in the letter. Now the important question involved in this case is whether Chunar-Chopan Section remained the Ghat Section even after coming into force aforesaid new running allowance rules ? or was de-classified to be a Ghat Section ?

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It has been contended by the Learned Counsel for the applicants that ruling gradient of Chunar-Chopan Section is for 1 in 41 to 1 in 80 and hence it is fully covered by the criterion of gradient mentioned in para 3.21 of the aforesaid letter of the Board and hence it should be treated as Ghat Section. The claim of the applicants have however, been refuted by the Respondents and it has been stated that in order to declare a particular Section as Ghat it is necessary that one-third length of total section must have the ruling gradient of 1 in 41 to 1 in 80 k.m. But in the section in question the ruling gradient 1 in 40 to 1 in 80 is in the distance of 32.86 k.m. only out of 103 k.m. distance of the entire section. The details of the ruling gradient in the section in question have been given in the Annxure to the Railway Board letter dated 19.12.1989 which is cited as under :-

"Old Ghat Section	Special Ghat Sec.	Length (in kms.)	
Northern Railway			
1.Chunar-chopan	(i) Sakteshgarh-Lusa	20-69	32.86
	(ii) Churk-Agevkhas	12.17	

It is further stated that the remaining portion i.e. (103-33)= 70 kms of Chunar-Chopan section has no ruling gradient as contemplated in the definition of the Ghat Section given in para 3.21 hence this part of Chunar-Chopan cannot be categorised as Special Ghat Section.

It is not in dispute that the total distance of Chunar-Chopan Section is 103 ^{k.m.}. It is evident from the provision contained in sub-clause (d) of Clause (1) of para 3.21 in which definition of Ghat Section has been given that the total length of the stretches in such a section having the gradients specified in clause (b) should be at least one-third of the length of the section concerned. Since, according to the Respondents, the total length of stretches having gradients mentioned in

Clause (b) in the Chunar-Chopan Section is not one-third of 103 k.m., this Section was de-classified as Ghat Section. It means that it was neither Class I Ghat Section nor Class II Ghat Section. Consequently running staff was not entitled to running allowance at inflated kilometrage. However, when the matter was re-considered by the Railway Board vide Railway Board's letter dated 19.12.1989 cited above 33 k.m. length out of 103 k.m. of Chunar-Chopan Section was declared as Special Ghat Section as a special case in relaxation of the provisions of para 3.21 of the Board's letter dated 17.7.1981 referred to above.

We find from the perusal of the Annexure to the letter dated 19.12.1989 that the Railway Board has determined only 33 k.m. distance namely (i) Sakteshgarh-Lusa which is 20-69 (ii) Churk-Agevkhaskhas which is 12.17 = 32.86 k.m. i.e. 33 k.m. having the required number of gradient as defined in para 3.21 of the Railway Board's letter dated 17.7.1981. It can reasonably be assumed that the Railway Board has determined and indicated the same after carrying out the proper technical survey of the Railway lines in question. We do not have any material or evidence to question the correctness of this measurement. Thus in our opinion it is fully established that the entire distance of Chunar-Chopan 103 k.m. is neither Class I Ghat Section nor Class II as defined in para 3.21 of Railway Board letter dated 17.7.1981. It is on the other hand established that Railway Board has declared only 33 k.m. stretch of Railway line on Chunar-Chopan Section as special Ghat Section vide letter dated 19.12.1989. It is also provided that as a very special case kilometrage may be paid at double the actual kilometrage i.e. 33 k.m. distance mentioned in the letter.

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We have also perused the provisions contained in para 922 of Indian Railway Establishment Manual, Vol.I in which the similar provision exists. It clearly provides that it is necessary to declare a Section as Ghat Section for the purpose of payment of running allowance that the total length stretches in such a section having the gradient should have at least one-third of the length of the Section concerned.

It is thus clear that the running staff of Chunar-Chopan Section is eligible for payment of running allowance as per provision contained in Railway Board letter dated-19.12.1989 referred to above without treating the entire Section as Ghat Section as claimed by the applicants. The applicants' claim for running allowance of 309 k.m. per trip on Chunar-Chopan section, therefore, fails.

The payment of running allowance on Chunar-Chopan Section was earlier being paid at the inflated rate to the applicants without their making any mis-representation or committing any fraud, therefore, we provide that any running allowance paid to the applicants at the inflated rate prior to the filing of the present O.A. on 5.2.1993 will not be recovered from their salaries.

We, therefore, dispose of this O.A. with the direction to the Respondents to pay the running allowance to the applicants on Chunar-Chopan Section as per provision contained in Railway Board letter dated 19.12.1989 and also not to recover any amount of running allowance paid to the applicants at the inflated rate prior to 5.2.1993 from their salaries.

No order as to cost.

Ranveer
JM

V. Mahajan
AM