

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 888 OF 1999

WITH

O. A. NUMBER 884, 885, 886 & 887 OF 1999

ALLAHABAD, THIS THE 23rd DAY OF APRIL, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, W.C.

1. Kali Charan, son of Sri Brij Lal
Posted Fire Man II, r/o C/o Senior Section
Engineer Diesel Loby Bareilly City.
 2. Janardan Tiwari,
Posted as Fire Man II, r/o c/o Senior Section
Engineer Diesel Loby, Pilibhit.
 3. Bhagwan Sahu, son of Shri Karu Sahu,
posted as Fire Man II, r/o c/o Senior Section
Engineer Diesel Loby, Pilibhit.
 4. Ajai Kumar, son of Shri Kanhaiya Lal
posted as Fire Man II r/o c/o Senior Section
Engineer Diesel Loby Bareilly City.
 5. Vinod Kumar Saxena, son of Shri C.P. Saxena
 6. B.C. Massey, son of Shri P.C. Massey
 7. Ishrar Hussain, son of Ali Hussain
 8. Chet Ram, son of Shri Dori Lal,
Applicants Nos.4 to 8 are posted as Fire Man II
r/o c/o Senior Section Engineer Diesel Loby,
Bareilly City.
 9. Ved Pal Singh, son of Shri Gaya Prasad
 10. Hirdaya Nand Pandey, son of Ram Prasad
 11. Rajendra Singh, son of Ram Bahadur
 12. Sharif Ahmad, son of Mohd. Ahmad
 13. Jakir Ali, son of Shri Saiyed Ali
- applicants Nos.9 to 13 are posted as Fire Man II
r/o c/o Senior Section Engineer Diesel Loby,
Pilibhit.



14. Haqiq Ahmad, son of Shri Lal Mohamad
15. Devicharan Awasthi, son of Shri Nathu Ram
16. Chiraunji Lal, son of Shri Darbari Lal
Applicants Nos. 14 to 16 are posted as Fire Man II
r/o c/o Senior Section Engineer Diesel Lobby,
Bareilly City.
17. Roop Kishor, son of Babu Ram
18. Ranush Chandra, son of Shri Narendra Kumar
19. Bhagwan Swarup, son of Shri Chandra
Applicants Nos. 17 to 19 are posted as Fire Man II
c/o Senior Section Engineer Diesel Lobby,
Pilibhit.
20. Tasleem Ahmad, son of Shri Chotey Miyan
21. Virendra Kumar Tiwari, son of Shri Sahdeo Tiwari
22. Fauzi Singh, son of Sri Trilochan
Applicants Nos. 20 to 22 are posted as Fire Man II
r/o c/o Senior Section Engineer Diesel Lobby,
Bareilly City.
23. Munna, son of Shri Narendra Kumar
posted as Fire Man II r/o c/o Senior Section
Engineer Diesel Lobby, Pilibhit.
24. Som Nath, son of Ram Pyarey
25. Devi Singh, son of Ganga Singh
Applicant Nos. 24 to 25 are posted as Fire Man II,
r/o c/o Senior Section Engineer Diesel Lobby,
Bareilly City.
26. Guru Pratap Szxena, son of Shri Dori Lal posted as
Fire Man DI r/o c/o Senior Section Engineer
Diesel Lobby, Pilibhit.
27. Krishna Babu, son of Shri Ulfat Ram
28. Ram Prasad, son of Shri Ganga Ram
Applicant Nos. 27 and 28 are posted as Fire Man II
r/o c/o Senior Section Engineer Diesel Lobby,
Bareilly City.

...Applicants

(By Advocate : Shri G.C. Gehrana)

V E R S U S

1. Union of India through the Secretary,
Railway Board, Rail Bhawan, New Delhi.

...3/-

2. The General Manager, North Eastern Railway, Gorakhpur.
3. The General Manager (Mechanical) North Eastern Railway, Gorakhpur.
4. The General Manager (Personnel) North Eastern Railway, Gorakhpur.
5. The General Manager (Operating) North Eastern Railway, Gorakhpur.
6. The Divisional Rail Manager, North Eastern Railway, Izzatnagar Division, Bareilly.
7. The Divisional Rail Manager (Personnel) Izzatnagar Division, Bareilly.
8. The Divisional Mechanical Engineer (Power), Izzatnagar, Bareilly.

.....Respondents

(By Advocate: Shri P. Mathur)

ALONG WITH M.A. 884 OF 1999

1. Mirza Aslam Beg son of Shri Rafiq Beg
2. Mohd. Waris Khan son of Faiz Mohd.
3. Jai Prakash son of Shri Shyam Lal
4. Babu Ram son of Shri Basant
5. Shri Ram son of Shri Jung
6. Raghav Jee Sharma son of Shri Banse Bahadur
7. Purshottam Das son of Shri Bihari Lal
8. Khursheed Alam son of Mohd. Zahir Alam
9. Sunil Kumar Gaur son Bahori Lal
10. Kashmir Singh son of Shri Banwari
11. Mohd. Rafiq son of Shri Nizamuddin
12. B. N. Mishra son of Shri Ram Misra
13. Ajai Kumar Misra son of Shri Harish Chandra Misra
14. Ram Saran son of Shri Bulaki Ram



.....4/-

15. Raj Pal Singh son of Dwarka Prasad
16. Panna Singh son of Shri B. Singh
17. Ram Jee Lal son of Sri Hari Singh

Applicant Nos. 1 to 13 are posted as Fire Man II resident of c/o Senior Section Engineer Diesel Lobby, Kasganj, Applicant Nos. 14 and 15 are posted as Fire Man II resident of c/o Senior Section Engineer Lobby, Fatehgarh and the applicant Nos. 16 and 17 are posted as Fire Man II, resident of c/o Senior Section Engineer Diesel Lobby, Mathura Cantt.

....Applicants

(By Advocate : Shri G.C. Gehrana)

V E R S U S

1. The Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, North Eastern Railway, Gorakhpur.
3. The General Manager (Mechanical) North Eastern Railway, Gorakhpur.
4. The General Manager (Personnel) North Eastern Railway, Gorakhpur.
5. The General Manager (Operating) North Eastern Railway, Gorakhpur.
6. The Divisional Rail Manager North Eastern Railway, Izatnagar Division, Bareilly.
7. The Divisional Rail Manager (Personnel) Izatnagar Division, Bareilly.
8. The Divisional Mechanical Engineer (power) Izatnagar, Bareilly.

...Respondents

(By Advocate : Shri K. P. Singh)

ALONGWITH D.A. 885 OF 1999

1. Mayank Tiwari, son of Sri Kali Shankar Tiwari
2. Anand Kumar son of Shri Ram Gopal
3. Rafiuddin son of Sri Nizamuddin
4. Shakil Ahmad son of ~~Imam~~ Ahmad
5. Isbrar Ahmad son of Nisar Ahmad

.....5/-

6. Shakir Ahmad son of Abdul Shakoor
7. B.N. Singh son of Brij Lal
8. Shri Niwas son of Daya Ram
9. Chandra Shekhar son of Har Prasad
10. Surendra Son Brij Nandan
11. Mohd Israli son of Mohd. Navi

Applicant Nos. 1 to 11 are posted as Fire Man II
r/o c/o Senior Section Engineer, Diesel Lobby,
Kasganj.

12. Balak Ram son of Shri Narain
13. Mohd. Hanif son Jan Mohammad

Applicant Nos. 12 and 13 are posted as Fire Man II
resident of c/o Senior Section Engineer, Diesel Lobby
Fatehgarh.

14. Abdul Shamad Ansari son of Sri Abdul Aziz
applicant is posted as Fire Man II, resident of
c/o Senior Section Engineer, Diesel Lobby, Kasganj.
15. Rajveer son of Sri Ravi Chandra
Applicant is posted as Fire Man II resident of C/o
Senior Section Engineer, Diesel Lobby, Fatehgarh.

16. Shiv Charan son of Soran Singh
17. Neksey Lal son of Shri Lalman

Applicant Nos. 16 and 17 are posted as Fire Man II
resident of c/o Senior Section Engineer, Diesel Lobby,
Kasganj.

....Applicants

(By Advocate : Shri G.C. Cehrana)

V E R S U S

1. Union of India through the Secretary
Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, North Eastern Railway,
Gorakhpur.
3. The General Manager (Mechanical) North Eastern Railway,
Gorakhpur
4. The General Manager (Personnel) North Eastern Railway,
Gorakhpur.
5. The General Manager (Operating) North Eastern Railway,
Gorakhpur.
6. The Divisional Rail Manager North Eastern Railway,
Izatnagar, Bareilly.
7. The Divisional Rail Manager (Personnel) Izatnagar
Division, Bareilly.
8. The Divisional Mechanical Engineer (Power) Izatnagar,
Bareilly.

(By Advocate : Shri K.P. Singh)

....Respondent

ALONG WITH O.A. 886 OF 1999

1. Om Prakash son of Sri Roshan Lal
2. Ram Sinhasan son of Sri Triveni Sahai
- 3.. Harvinder Singh son of Sri Pyarey Singh
4. Dhirendra Kumar son of Peetam Singh
5. Om Prakash son of Kapil Deo
6. Alfred Singh son of Sri Albert Singh
7. Om Prakash son of Sri Jai Dayal
8. Surendra Singh son of Laxman Singh
9. Omkar Singh son of Sri Nathu Singh
10. B.K.Tandan son of Sri B.R.Tandan
11. Sunil Kumar Saxena son of Kailash Chandra
12. Amjad Ali son of Sri Mohd.Ali
13. Ram Ashrey son of Keshav Saran
14. Brij Mohan son of Sewa Ram
15. Siya Ram son of Sita Ram
16. Bhajan Lal son of Sri Ram Prasad
17. Khem Karan son of Sri Ganpat Ram
18. Shan Khan son of Sri Sukhan Khan
19. Vishan Lal son of Sri Pyarey Lal
20. A.M.Denial son of Sri S.M.Denial
21. Airan Lal son of Sri Chet Ram
22. Roop Lal son of Ram Swaroop
23. V.K.Saxena son of Sri Ved Prakash
24. S.Jacob son of Sri E.A.Jacob
25. Ramesh Chandra Son of Sri Ram Ashrey
26. Hari Babu II son of Sri Poshaki Lal

Applicant nos. 1 to 8 are posted as Fire Man II r/o c/o Senior Section Engineer Diesel Lobby, Kashipur and the applicant Nos. 9 are posted as Fire Man II r/o c/o Senior Section Engineer Diesel Lobby, Pilibhit and the applicant No. 10 to 26 are posted as Fire Man II r/o c/o Senior Section Engineer Diesel Lobby Bareilly City.



.....7/-

// 7 //

27. D.N. Tondon son of Sri Kashi Nath Tondon

28. Chiraunji Lal son of Sri Chandra

Applicant No.s 27 and 28 are posted as Fire Man II
r/o c/o Senior Section Engineer Diesel Lobby,
Kathgodam.

....Applicants

(By Advocate : Shri G.C. Gehrana)

V E R S U S

1. Union of India through the Secretary
Railway Board, Rail Bhawan, New Delhi.

2. The General Manager ~~XXXXXX~~ North Eastern Railway
Gorakhpur.

3. The General Manager (Mechanical) North Eastern Railway,
Gorakhpur.

4. The General Manager (Personnel) North Eastern Railway,
Gorakhpur.

5. The General Manager (Operating) North Eastern Railway,
Gorakhpur.

6. The Divisional Rail Manager North Eastern Railway,
Izatnagar Division, Bareilly.

7. The Divisional Rail Manager (Personnel), Izatnagar
Division, Bareilly.

8. The Divisional Mechanical Engineer (Power) Izatnagar
Bareilly.

...Respondents

(By Advocate : Shri K. P. Singh)

ALONGWITH O.A. NUMBER 887 OF 1999

1. B.N.Sen Gupta son of Sri J.N.Sen Gupta

2. Ishrat Miyan, son of Sri Maqbool Hussain

3. Hidayat Rasool, son of Sri Gulam Rasool

4. Anil Kumar, son of Sri Chadanbri Lal

5. Prakash Chandra Sharma, son of Sri Bhola Dutt.

6. Vijai Shankar Prasad, son of Vidyadhar

7. Badshah Yadav, son of Sri Puran Singh

8. Dutt Prakash, son of Sri O.P.Khanna

9. Virendra Pal, son of Sri Mishri Lal



.....8.

10. Naresh Chandra, son of Sri Hori Lal
11. Subhash Chandra, son of Shri K.K.Singh
12. Kaptan Singh, son of Sri Ram Pal Singh
13. Mohd. Miyan, son of Sri Ahmad Miyan
14. Om Prakash, son of Sri Ganga Ram
15. P.K.Bajpai, son of Sri C.S. Bajpai
16. Girish Babu, son of Sri Munna Lal
17. Ratan Singh Rana, son of Sri Indra Prakash
18. Mumtaj Ahmad, son of Sri Istiyak Ahmad
19. Babu Ram, son of Sri Ram Dayal
20. Manohar Lal, son of Khunni Lal
21. R.K.Sharma, son of Shri Ram Bharosey
22. S.N. Upadhyay, son of Sri Ramker
23. Prem Singh, son of Sri Veer Bhagat Singh
24. Naresh Chandra Sinha, son of Sri Siya Ram Sinha
25. Shabbir Hussain, son of Sri Alim Hussain.
26. Narendra Kumar Jatav, son of Sri Sri Kishan
27. Akhilesh Kumar Katiyar, son of Sri Om Prakash.

All the applicants are posted as Fire Man II
resident of C/o Senior Section Engineer, Diesel
Loby, Bareilly City.

.....Applicants.

(By Advocate : Shri C.C. Gehrana)

V E R S U S

1. Union of India through the Secretary
Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, North Eastern Railway,
Gorakhpur.
3. The General Manager (Mechanical) North Eastern
Railway, Gorakhpur.
4. The General Manager (Personnel) North Eastern
Railway, Gorakhpur.



.....9.

5. The General Manager (Operating) North Eastern Railway, Gorakhpur.
6. The Divisional Rail Manager North Eastern Railway, Izatnagar Division, Bareilly.
7. The Divisional Rail Manager (Personnel) Izatnagar Division, Bareilly.
8. The Divisional Mechanical Engineer (Power) Izatnagar, Bareilly.

....Respondents

(By Advocate : Shri P. Mathur)

O R D E R

By Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman

In O.A. Nos. 888/99, 884/99, 885/99, 886/99 and 887/99, the questions of facts and law are similar in the aforesaid O.As and they can be decided by a common order against which counsel for the parties have no objection. O.A. No.888/99 is the leading case in the aforesaid O.As.

2. By these O.As filed under section 19 of Administrative Tribunals Act, 1985, the applicants have challenged the order dated 23.06.1999 (Annexure-A) by which direction was given not to pay running allowance or 30% of salary in lieu thereof to the applicants who were rendered surplus on account of closure of Loco Shed.

3. The facts of the case are that applicants were serving as Fire Man II in Loco Sheds and were performing running duties for which they were being paid running allowance. The Loco Sheds were closed and the applicants were rendered surplus. They were kept in waiting and were gradually adjusted against the post with running duties. The

R. Mathur

present position is that the applicants are on running duties and they are being paid running allowance. The dispute in the aforesaid O.As are regarding payment of running allowance

- or 30% salary in lieu thereof, ^{when not pay allowance and} during the period after 23.06.99, ^{order was passed} till the applicants were absorbed against the normal duties. This period may be different in respect of different applicants according to the date of absorption.

4. I have heard Shri G.C. Gehrana, counsel for the applicant and Shri P. Mathur & Shri K.P. Singh, counsel for the respondents.

5. Learned counsel for the applicants has submitted that running allowance is part of the pay as provided in para 903 of India Railway Establishment Manual Volume-I which reads as under:-

"903. Pay element in running allowance-

30% of the basic pay of the running staff will be treated to be in the nature of pay representing the pay element in the Running Allowance. This pay element would fall under clause (iii) of Rule 1303-FR-9 21 (a) i.e. "emoluments which are specially classed as pay by the President."

6. Counsel for the applicants has submitted that in view of the aforesaid provision, running allowance is the part of the pay of the applicants and they could not be deprived by any authority. Learned counsel for the applicant has further submitted that some of the similar situated employees, who were rendered surplus from Loco Shed out of running categories, were absorbed in non-running categories



and their pay was fixed [✓]~~together~~ after giving them benefit of 30% of the pay in lieu of the running allowance. In para 29 & 30 of the O.A. this averment has been made which has not been denied in para 26 of the Counter reply. Counsel for the applicants has also placed before me the order dated 12.01.2000 passed by DRM(P) Sonpur directing to pay 30% of the salary in lieu [✓] of running allowance and to fix the pay of those who were declared surplus and have been absorbed against the post which are non-running. Copy of the order has been filed as Annexure-3 to the Misc. Application No.932 of 2002.

7. Counsel for the applicants has submitted that the respondents could not discriminate the applicants and could not deny the applicants the same benefit which was granted [✓] to similarly situated employees [✓] in other divisions. Learned counsel has placed reliance on the Judgment [✓] of ~~Division Bench~~ of Hon'ble Supreme Court in the case of Executive Engineer, Electricity Division Vs. Hydro Electric Employees Union [✓] AIR (1999) SC 1520 and another judgment of Division Bench of Hon'ble High Court in the case of Chandra Bhan Singh Vs. State of U.P. and others 1990 ACJ 263.

8. Counsel for the respondents, on the other hand, submitted that applicants could not be paid running allowance or 30% of the salary in lieu thereof as they were not working during the period and they were not discharging duties of running nature. It is submitted that the benefit is post attached.

9. I have carefully considered the submissions of the counsel for the parties. However, in view of the provisions contained in para 903 of IREM Volume-I, it is difficult to accept the submission made by the counsel for the respondents. Running allowance is the element of pay and employee who is discharging running duties he is paid 30% of the salary in lieu thereof. It is especially protected by ^{Presidential} ~~procedural~~ order quoted in para 903 of IREM Volume-I and confirm^{ing} the above protection. Applicants could not be deprived of this benefit. Learned counsel has rightly submitted that applicants have been discriminated and the benefit has been granted to other employees who are similarly situated in other divisions. The applicants, however, have been denied the benefit.

10. Considering this, in my opinion, applicants are entitled for relief. The O.As are allowed. The impugned order dated 23.06.1999 is quashed. Respondents are directed to pay 30% of the pay in lieu of running allowance after calculating the same in respect of each of the applicants separately. This order shall be complied with, within 6 months from the date a copy of this order is filed.

11. There will be no order as to costs.

- Sdr
V.C.

N.W.
30/4/03