

Central Administrative Tribunal
Calcutta Bench

OA No.424/1997

Present : Hon'ble Mr.N.D. Dayal, Member(A)
Hon'ble Mr.K.B.S. Rajan, Member(J)

Madan Mohan Das, S/o Late Khudiram Das, Tower Wagon Driver, Chaibasa, S.E. Rly, at present residing at C/o ATFO/O.H.E./CBSA, S.E. Rly, P.O. Chaibasa

-Vs-

- 1) Union of India, service through the General Manager, S.E. Rly, Garden Reach, Calcutta – 43
- 2) Sr. Dvl. Personnel Officer, S.E. Rly, Chakradharpur
- 3) The Chief Personnel Officer (Admn), S.E. Rly, Garden Reach, Calcutta-43
- 4) Sr. Dvl. Electrical (Tr.D) Engineer, S.E. Rly, Chakradharpur
- 5) The DRM, S.E. Rly, Chakradharpur

For the applicant : Mr.A. Chakraborty, Counsel

For the respondents : Mr.S. Choudhury, Counsel

Date of Order : 24-06-05

ORDER

Mr.N.D. Dayal, Member(A)

The applicant who is working as Tower Wagon Driver, S.E. Rly at Chakradharpur has brought to notice that the Railway Board ordered that the Tower Wagon Drivers of TRD Organisation of Electrical Department are to be treated as running staff but this order has not been implemented by providing benefits thereof even though they have been extended to Goods Drivers. In fact, by letter dated 1-7-93 the Sr.DEE (TRD) Chakradharpur declared that the Tower Wagon Drivers of TRD Organisation are hereby treated as running staff in terms of Board's orders contained in Estt. Sl. No.79/91 and 189/91. The guidelines received from CPO, Garden Reach vide letter dated 31-5-93 were

thereby circulated for necessary action. Again on 26-4-94 the Sr. DPO, Chakradharpur declared the applicant along with certain other T.W. Drivers as eligible for running allowance applicable to Goods Driver. It is explained that such benefits are detailed in orders passed by CPO Administration, S.E. Rly dated 31-5-93 regarding scale of pay and various entitlements relating to mileage, break down mileage, rest facility, duty roster etc. Hence the applicant has alleged that he has been discriminated and the respondents have not even given the scale of Goods Driver, i.e. 1350-2200/- and he is still drawing the scale of Rs1320-2040/. Hence the applicant has sought the following reliefs :

- a) The respondents be directed to give the benefit of running staff to the applicant like goods driver as per CPO's office/GRC Order No.P/L/13/MECH/ELECT/RG/RA/TWD dated 30-5-93.
- b) Respondents be directed to give the extra mileage i.e. 16 KMs per hour as per rule.
- c) Respondents be directed to provide the applicant with the rest facility,
- d) Respondents be directed to give the applicant Break down mileage also.
- e) Respondents be directed to provide duty roster.
- f) Respondents be directed to give mileage arrears from 10-4-91.
- g) Respondents be directed to grant the applicant the scale of Rs1350-2200/- which is drawing by Goods Driver.

2. The respondents have taken a preliminary objection on account of lack of jurisdiction of this Tribunal stating that the applicant is posted at Chaibasa, the Divisional Railway Manager is at Chakradharpur and the competent authority to dispose of his grievance is also at Chakradharpur which are in the District of West Singhbhum in the State of Bihar. We however find that the order dated 31-5-93 by which the Tower Wagon Drivers of TRD organization in Electrical Department were treated as running staff and relevant provisions were stipulated, was issued by the Chief Personnel Officer

(Admn) , S.E. Railway, Garden Reach, Calcutta. Since a part of the cause of action has arisen here, we are of the view that this Tribunal seizes jurisdiction.

3. The respondents have contested the claim of the applicant by filing a reply statement. It is not disputed that the Railway Board took a decision that Tower Wagon Drivers be classified as Running Staff and should be paid running allowance at the rate applicable to Goods Driver with effect from 10-4-91. It is explained that the applicant has not submitted his claim for kilometerage allowance for the period 10-4-91 to 5-6-94. As per rules the applicant was required to submit the claim in form T-34 HF but since he has not made such claim, this payment could not be made so far. However, since he did submit details of duty in form T-34 HF for the period from 6-6-94 onwards he has been paid the allowances for the same. Also it is informed that journal for arrear payment of kilometer allowance has been submitted only for the period from 6-6-94 to 17-9-94. The said arrear has been drawn up through Supplementary Bill dated 12-2-96 and the matter is under correspondence with the Accounts Department.

4. It is further clarified that since the applicant is Headquartered at Chaibasa and is normally required to perform duty in the section between Maluka and Rajkharsuan spread over a distance of less than 60 KMs to and fro, hence the kilometerage allowance is paid at a flat rate for 120 KMs per day even if he is not required to work every day. There is no provision to pay 15 kilometer per hour mileage after completion of 8 hours duty and no running staff is entitled to the same. Further, as per para 3.2 of the orders dated 31-5-93 Tower Wagon Drivers on being treated as running staff are not eligible for break down allowance being entitled to running allowance. TA/DA is also no longer admissible to them. Therefore, TA/DA already paid to the applicant for the period 10-4-91 to 5-6-94 as well as break down allowance incorrectly paid would have to be

✓

recovered from his arrears as running staff for this period when he submits the necessary claim in form T 34 HF.

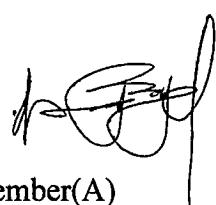
5. The respondents have also pointed out that as per Railway Board letter dated 23-8-72 Breach of rest allowance is not admissible to Tower Wagon Drivers but if they are required for duty in emergency beyond duty of 8 hours they are to be paid over time. Since they are classified as 'continuous category' with 8 hours duty as per HOER there cannot be any specific roster hours of duty for them. Unless they are required to attend break down/maintenance duty at outstation, they perform 8-16 hours duty within the depot jurisdiction. It has been further pointed out that the applicant being a Tower Wagon Driver is entitled to payment of running allowance at the rate applicable to Goods Driver in terms of the Railway Board's order dated 10-4-91 and 24-9-91, but is not entitled to higher pay scale of the Goods Driver as there is no such decision.

6. No rejoinder has been filed by the applicant. We have heard the learned counsel for both sides and perused the pleadings. We find no material on record to support the plea for the same pay scale for the applicant as is applicable to Goods Driver, nor are there any averments in the application which could support such a claim for parity in pay scale. It is however clear that the applicant is entitled to the running allowance and mileage as permissible to Goods Driver subject to the stand taken by the respondents which remains uncontested. As per the order dated 31-5-93 the applicant is not eligible for break down allowance and also no TA/DA is admissible to him with the entitlement to running allowance. It is for the applicant to submit his claim in the proper form for the kilometerage allowance for the period for which he has not done so whereupon the respondents shall grant the same in accordance with the rules within three months of submission of such claim. In so far as arrear kilometerage already claimed for the period from 6-6-94 is concerned, it is not acceptable that the matter should be under

correspondence with the Accounts Department for so long even though the arrears have been drawn by supplementary bill dated 12-2-96. The respondents are therefore asked to release the admissible arrear amount as per claim in this regard within a period of three months from the date of communication of this order. The TA/DA and break down allowance is stated to have been paid erroneously to the applicant but such payment shall not be recoverable unless attributable to any lapse on his part. In so far as the other reliefs claimed by the applicant are concerned the respondents would be well within their rights to proceed in the matter as per the relevant rules and guidelines. The application is disposed of as above. No costs.



Member(J)



Member(A)