

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 463 of 1997

Thursday, this the 8th day of March, 2001

CORAM

**HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER**

1. Indian Railway Permanent Way Inspectors Association, Regd.No. 1030/CPT through A. Christopher, S/o Dr. S. Alexander, Secretary, South Zone, residing at "Indu Bhavanam", Siddhi Vinayakar Colony, Tenparankunram, Thiruparankundram, Madurai District.
 2. V. Kamala, W/o late Varadarajan, No.81/1 Dasappa Garden, HMT Layout, RT Nagar, Bangalore-32
 3. V. Vijaya, D/o late Varadarajan, No.81/1 Dasappa Garden, HMT Layout, RT Nagar, Bangalore-32
 4. V. Anand, S/o late Varadarajan, No.81/1 Dasappa Garden, HMT Layout, RT Nagar, Bangalore-32
-Applicants

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Railways, New Delhi.
2. The General Manager, Southern Railway, Headquarters Office, Park Town PO, Madras-3
3. The Chief Personnel Officer, Southern Railway, Headquarters Office, Park Town PO, Madras-3
4. The Divisional Railway Manager, Southern Railway, Divisional Office, Palghat.
5. The Divisional Railway Manager, Southern Railway, Tiruchirappalli Division, Tiruchirappalli.
6. The Divisional Railway Manager, Southern Railway, Madurai Division, Madurai.
7. Chief Project Manager, Southern Railway, Construction, Madras Egmore, Madras-8

8. The Chief Project Manager,
Southern Railway,
Metropolitan Rail Transport Project,
Egmore, Madras-8Respondents

[By Advocate Mrs Sumathi Dandapani]

The application having been heard on 8th of March, 2001,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The 1st applicant is the Indian Railway Permanent Way Inspectors' Association represented by its Secretary and the original 2nd applicant who passed away during the pendency of the application was a member of the Association and an affected person posted at Palghat Division of Southern Railway. The substituted applicants 2 to 4 are the legal heirs of the deceased 2nd applicant. The relief sought in the application is for a direction to the respondents to extend the benefit of declaration in Annexure A1 judgement to the applicants also with consequential benefits. The Railway Board brought into effect a Scheme with effect from 14-5-1966 to grant incentive for railway employees/apprentices for acquiring higher scientific/technical qualification, i.e. an amount of Rs.200/for passing Part-I or 'A' or Intermediate or pre-final examination and Two advance increments for passing Part-II or 'B' or final examination. This was extended from time to time. The applicants having acquired the qualification were in receipt of the incentive at the rates mentioned in the scheme (Annexure R1). On acceptance of the recommendations of the IVth Central Pay Commission, the Railway Board issued an order dated 29-5-1989 enhancing the incentive as two advance increments for passing Part-I or 'A' or Intermediate or pre-final examination and four advance increments for passing Part-II or 'B' or final examination. The Railway administration did not grant the additional increments in terms

of the revised scheme (Annexure A2 dated 29-5-1989) to those persons who had already acquired the qualification prior to 29-5-1989. Four persons who were denied the additional increments as per the revised scheme Annexure A2 approached the Ernakulam Bench of the Central Administrative Tribunal by filing OA 526/92 and one person by filing OA 926/92. The Tribunal vide common order dated 6-7-1993 held that it is an injustice to deny the additional increments to a person who has acquired the higher professional/technical qualification on a date prior to 29-5-1989, while giving it to a person who acquired the higher qualification after that date. The OAs were therefore allowed and the respondents were directed to grant the applicants four additional increments in terms of the observation made therein. The Railway administration aggrieved by the decision carried the matter before the Apex Court in a Special Leave Petition and the Special Leave Petition was dismissed. Applicants who claim to be similarly situated like the applicants in those two OAs, finding that the benefit which was given to the applicants in OA 526/92 and OA 926/92 was not given to them inspite of representations made in that behalf, have therefore filed this application for a direction to the respondents to extend the benefit of the declaration in Annexure A1 judgement to them also with consequential benefits.

2. Respondents resist the claim of the applicants. They contend that the Railway has in its letter dated 19-9-1990 (Annexure R4) clarified that the benefit could not be available to persons who had acquired the qualification prior to 29-5-1989 and that as the applicants had acquired the qualification prior to that date, the applicant are not entitled to the benefit. Apart from resisting the claim on merits, the respondents have also contended that the application is barred by limitation and that the Tribunal does

not have the territorial jurisdiction to entertain the application as the 1st applicant is stationed outside the state of Kerala in Chennai.

3. We have heard the learned counsel on either side. Learned counsel of the applicant stated that the General Manager, Southern Railway, Madras being convinced that the benefit of six advance increments had to be given to those who have acquired the qualification irrespective of the date of acquisition of the qualification, has sent a proposal to the Railway Board and that the same has not been disposed of by the Railway Board and the applicants in this case would be satisfied if the Railway Board administration is directed to examine the claim of the applicants and extend the benefit of A1 judgement if they find that the applicants herein are similarly situated like the applicants in OA 526/92 and OA 926/92.

4. We shall first deal with the plea of limitation and want of jurisdiction. When the OA came up for hearing on admission on 4-4-1997, the Bench has after hearing the counsel on either side admitted the application. While admitting the application after hearing the counsel on either side, if there has been a delay, it should be deemed that the delay has been condoned. Therefore, there is no merit in the contention that the OA is barred by limitation. With regard to want of jurisdiction, the 1st applicant is an Association which has got its headquarters at Madras and is representing its members spread throughout Southern Railway of which Kerala State also is one of the territorial component. The 2nd applicant, a member of the Association, was posted in Palghat Division at the when he filed this application. Therefore, the contention that this Bench of the Tribunal does not have jurisdiction to


entertain the application cannot stand. The Railway being a model employer has to take uniform stand in respect of all the employees working under it. If the applicants in OA 526/92 and OA 926/92 were entitled to certain benefits and if the applicants herein are also similarly situated in all respects, we find no reason why the Railway should deny the benefits to the applicants herein. Therefore, the request of the learned counsel of the applicants that the OA may be disposed of with a direction to the respondents to consider the claim of the applicants and if they are satisfied that the applicants herein are similarly placed like the applicants in OA 526/92 and OA 926/92, the benefit given to applicants in those two cases may be extended to applicants herein also with consequential benefits appears to us to be reasonable.

5. In the light of what is stated above, the application is disposed of directing the respondents to consider the request of the applicants made in the application for extension of the benefit of six advance increments and that if it is found that the applicants are similarly placed like the applicants in OA 526/92 and OA 926/92, to extend to the applicants the same benefit as is given to the applicants in those two cases. The above exercise shall be completed and orders issued as expeditiously as possible, at any rate, not later than six months from the date of receipt of copy of this order. There shall be no order as to costs.

Thursday, this the 8th day of March, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

ak.

List of Annexure referred to in this order:

1. A1 True copy of the judgement in OA Nos. 526/92 and 926/92 dated 6-7-93 delivered by the CAT, Ernakulam Bench.
2. A2 True copy of the Order No. E(NG)I/87/IC 2/1 dated 29-5-89 issued by the Railway Board.
3. R1 True copy of the letter dated 20-6-66 vide No. P(RT)553/I/2/Incentives issued by the General Manager, Southern Railway, Madras.
4. R4 True copy of the letter No. P(RT)553/1/2/Incentives/Vol.III dated 19-9-90 issued by the Chief Personnel Officer, Southern Railway, Madras enclosing Board's letter dated 4-9-90.