

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH



O.A. NO.489/2009 & 492/2009

Dated this the 14th day of June, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

1 K.Sivathanu Pillai S/o Kumara Swami Pillai
Retd. Sr. Loco Inspector
Southern Railway, Palghat Division
residing at 135/479
Ponnammal Illom, West Street
Arugu Vilai, Nagercoil-629 001

2 C. Thankamony S/o Chellappan Pillai
Retd. Sr. Loco Inspector
Southern Railway, Palghat Division
residing at Karthika
TC 8/783/TV Nagar, Thirumala PO
Trivandrum-695 006

Applicants

By Advocate Mr. M.P. Varkey

Vs

1 Union of India represented by Chairman
Railway Board, Rail Bhavan
Rafi Marg, New Delhi-110 001

2 The General Manager,
Southern Railway
Park Town, Chennai-600 003

3 The Divisional Railway Manager
Southern Railway,
Palghat

respondents.

Advocate Mr. Thomas Mathew Nellimoottil

O. A. 492/09

- 1 M.D. Thomas S/o Daniel
Retd. Sr. Loco Inspector
Southern Railway, Trivandrum
residing at Flat No. A-1
Nalanda, Nanthancode
Trivandrum-695 003
- 2 K. Ravindran S/o Kunjan Pillai
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Southern Railway, Trivandrum
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Palmgrove Lane, Vattiyoorkavu PO
Trivandrum-696 013
- 3 A.C. Abraham S/o Cheriyan
Retd. Sr. Loco Inspector
Southern Railway, Trivandrum
residing at Lake view Garden
TC 23/1276/1
Melarannur, Karamana
Trivandrum.
- 4 G. Chandran S/o Gopalan
residing at Chaithanya
Nangiarkulangara PO
Haripad, Alapuzha
- 5 V. Ramachandran Nair S/o Velayudhan Pillai
Retd. Sr. Loco Inspector
Southern Railway, Trivandrum
residing at Ramraj, H.No. 217, TC 2/3279/2
SCT Nagar, Pattom PO
Trivandrum
- 6 Mohan Kuruvilla S/o Kuruvilla
residing at Kottavathukkal House
Retd. Sr. Loco Inspector
Southern Railway, Trivandrum

Kattachal Road, Thirumala PO
Trivandrum-695 006

- 7 K. Raveendran S/o Kunju Pillai
Retd. Sr. Loco Inspector
Southern Railway, Trivandrum
residing at Nisha Nivas
Kothalavayal, Thangasseri PO
Kollam.

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- 3 The Divisional Railway Manager
Southern Railway,
Trivandrum-695 014

Respondents.

By Advocate Mr. Thomas Mathew Nellimoottil

These Applications having been heard on 24.5.2010 the
Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

These two Applications were heard together as the facts and
legal issue raised in these Applications are same.

O.A. 489/2009

- 2 The applicants are retired Senior Loco Inspectors from
Palghat Division of Southern Railway in 1999 and 1997 respectively.

Their retiral benefits were settled in terms of Annexure A-2 order by adding 30% add on pay element to their basic pay. However, they came to know by orders/judgments in Annexure A-4 to A-8 that Loco Inspectors are entitled to have 55% of pay element added to their basic pay for computing retirement benefits. Aggrieved they submitted representations for extension of the benefits granted to similar retirees in terms of the said decisions. Since there was no response, they moved this O.A for a declaration that they are entitled for extension of the retiral benefits granted to similarly placed retirees as per A-4 and A-8 orders/judgments and to direct the respondents to revise the same accordingly.

3 The respondents in the reply statement submitted that retirement benefits of running staff are computed on Pay plus a specified component of Running Allowance/Pay. They submitted that Loco Inspectors/Senior Loco Inspectors who are in the cadre of Loco Running Supervisors are not classified as running staff in the Rules as such they are not eligible for the reliefs sought for. They relied on Rules 3(iii), (iv), (v) and (xvi) of the "Rules for the payment of Running and other Allowances to the Running Staff on Railways 1981" wherein a distinction is made between Running Staff and Stationery Staff and Rule 1507 and 1509 of Indian Railway Establishment Code Vol.II. They submitted that the job of the Loco Running Supervisors is only to supervise the work of the running staff. When running staff are promoted to the post of Loco Inspectors, the benefit of adding an element of 30% basic pay is given at the time of fixation of pay in the higher post. As such, they ceased to be running staff from the date of their appointment as Loco Running Supervisors.

They further avsered that on appointment as Loco Inspectors, the basic pay is initially fixed by adding 30% add on element and finally on retirement further 30% of pay is added to their pay for the pensionary benefits. They have given the following illustration:

Sl No	Percentage of running allowance to be added for pensioners benefit	Percentage of Running Allowance	Assume that basic pay is Rs. 100/-
1	In case of Drivers /Running Staff	55% of pay element to be added to their basic pay	RS. 155/-
2(i)	In case of Loco Inspectors at the time of appointment	30% of pay added to their basic pay for fixing in the promoted grade	Rs. 130/-
2(ii)	In case of Loco Inspectors at the time of retirement again 30% of pay to be added	30% of pay on Sl. No. 2(i) above	Rs. 130/- + 30% of Rs. 130 = Rs. 169/-
3	In case of claim as per OA is admitted	55% of Sl. No. 2(i) above	RS. 130/- + 55% of 130= RS. 201/-

Therefore, the cumulative benefits when the applicant retire as Loco Inspector will obviously be more than what is now granted to the running Staff/Loco Pilot. The basic pay on appointment as Loco Inspector by adding 30% will be to Rs. 130/- already granted at the time of appointment as Loco Inspector which amounts to Rs. 169/-. There is a 14% higher cumulative benefit which is more than what the driver/Loco Pilot would receive on the retirement as pensionary benefit. Therefore they submitted that the calculation of Running Allowance in case of applicants is as per RBE 198/92. If the relief sought in the O.A is allowed by granting the add on element of 55% for the pensionary benefit, then the basic pay for the pension is increased by 101.1% which is by any stretch of imagination an unjustified one.

O.A.492/2009

5 The applicants except No.3, are retired Senior Loco

Inspectors and applicant No. 3 is a retired Loco Inspector from Trivandrum Division of Southern Railway. Their retiral benefits were settled in terms of Annexure A-2 order i.e by adding 30% add on pay element to their basic pay. They have been drawing pension accordingly. While so in March, 2008 they came across orders/judgments at Annexures A-4 to A-8 in terms of which the Loco Inspectors are entitled to have 55% of pay element added to their basic pay for computing retirement benefits but the benefit was not extended to the applicants. Aggrieved they submitted Annexure A-9 series representations seeking extension of the benefit. Having not received any response they filed this O.A seeking the reliefs.

6 The respondents have filed more or less similar reply statement as in O.A. 489/09.

7 When the cases were taken up for hearing on 24.5.2010 the learned counsel for the applicants pointed out that advance correction slip No. 21 is omitted to be filed by him and sought a short time. He was directed to file an additional rejoinder within a week.

8 I have heard learned counsel for the parties at length.

9 The learned counsel for the applicants relied on the orders of the Principal Bench of the Tribunal in O.A. 1273/2005, OA 118/2006, O.A. 396/2006, 549/2007 and the judgment of the High Court of Delhi in WP(C) No. 2937 of 2007 in support of their case.

10 The learned counsel for the respondents submitted that the order of the Principal Bench of the Tribunal in O.A. 1273/05, affirmed

by the High Court of Delhi in WP(C) No. 2937 of 2007 in Union of India & Ors Vs. Ganesh Das and Kishan Lal Sharma & Ors and several other orders of the Tribunal/Courts are under challenge before the Hon'ble Supreme Court and in SLP (Civil) No. 11808/2009 the Apex Court stayed the Contempt proceedings against non-implementation of the orders.

11 The learned counsel for the applicants filed additional rejoinder annexing Annexure A-10 "Advance Correction Slip No. 21-R.11 (6th edition 1987) which is extracted below:

Section 111-Allowance for Loco Inspector.

Rule 1514: Running Allowance shall be admissible to the Loco Inspectors drawn from the Loco Running staff for the performance of duties directly connected with the training and monitoring of loco running staff on foot plate of the locomotive cab of the moving trains.

Rule 1515 Types of Allowances:

(1) The loco Inspectors shall be paid:-

(a) A kilometrage allowance for actual kilometrage travelled on foot plate while employed on foot plate duties indicated in Rule 1514 above, Kilometrage allowance shall be paid at the rates specified from time to time for these categories of staff.

(b) An allowance in lieu of kilometrage (ALK) at the rate of 160 kilometres per day while employed on other than foot plate outside their headquarters beyond a radius of 8 kilometres.

© Where the loco Inspectors are deployed for foot plate duties indicated in Rule 1514 for part of the day and for other than foot plate duties in the moving train or at outstation for the remaining part of the day, the payment of

kilometerage allowance shall be made either in terms of (a) or (b) above whichever is higher.

(2) No other special allowance shall be admissible unless specifically sanctioned by Railway Board.

From the above, it is clear that the Loco Inspectors drawn from Loco Running Staff are entitled to Running allowance for the performance connected with training and monitoring of loco running staff on foot plate at rates fixed from time to time. The respondents have no case that this order has been modified or cancelled. Their case is that the Loco Inspectors are not paid any allowances. However, the issue is pending before the Apex Court in SLP (Civil) No. 11808/2009.

11 In this view of the matter, we follow the orders of the Principal Bench in O.A. 1273/2005, affirmed by the High Court of Delhi in WP(C)No.2937/2007. Accordingly, I direct the respondents to re-fix the pay of the applicants by taking in to consideration add on element of 55% of their basic pay instead of 30% as at A-1 series of PPOs with consequential arrears from the date of filing of this O.A. However, we make it clear that this order would be subject to the judgment of the Apex Court in the SLP referred to above. The OAs are disposed of as above. No costs.

Dated /4th June, 2010

K. NOORJEHAN/
ADMINISTRATIVE MEMBER

kmm