

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 283 of 1999

Wednesday, this the 20th day of June, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. All India Loco Running Staff Association
Regd. No.17903, South Zone, represented by
the General Secretary, L. Mony,
S/o late P. Lakshmana Reddiar,
Passenger Driver, Southern Railway,
Residing at: Devi Nilayam, Kadavil Road,
Thykooram, Kochi.
2. All India Guards Council, Regd. No.1140,
South Zone, represented by Zonal Vice President,
K. Bhaskaran, S/o Chinnan, Mail Guard,
Southern Railway, Ernakulam,
Residing at: "Adhira", No.31/1018-G,
Rail Nagar, Vytila PO, Ernakulam.
3. K.P. Janardhanan, S/o K. Gopalan,
Diesel Assistant, Southern Railway, Ernakulam,
Residing at: Kunjiparambath House,
Post Peringad, Cannanore.
4. D. Thomas, S/o Devassia,
Passenger Guard, Southern Railway, Ernakulam,
Residing at: Koduvathara,
Industrial Nagar PO, Changanassery,
Kottayam District.Applicants

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town PO, Madras-3
2. The Chief Engineer,
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 Senior Divisional Mechanical Engineer,
Southern Railway, Trivandrum Division,
Trivandrum-14
5. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum-14Respondents

[By Advocate Mrs Sumathi Dandapani (rep.)]

The application having been heard on 20-6-2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A1 and A2 and to direct the respondents to continue to calculate and pay Ghat section allowance as per A3.

2. The 1st applicant is All India Loco Running Staff Association, South Zone. The 2nd applicant is All India Guards Council, South Zone. The 3rd applicant is working as Diesel Assistant. The 4th applicant is a Passenger Guard.

3. Respondents have issued the impugned orders A1 and A2 dated 19-11-1998 and 7-12-1998 respectively. Applicants say that A1 and A2 are arbitrary and contrary to law. They also say that A1 is totally without application of mind and is not based on any factual measurements of gradients. They further say that A1 can have no retrospective effect.

4. Respondents say that A1 was issued as a result of doubling and consequent upgradation of the tracks and as pointed out by the audit in their objection in updating the index register by the Civil Engineering Department from time to time and corrected upto 31-3-1997. However, it does not preclude the authority concerned to review the ghat section from time to time due to improvement or upgradation of tracks as a result of modernisation. As a result of the review undertaken the only ghat section in Shornur-Cochin Harbour Terminus section (Down line) in Trivandrum Division is as shown in A1. These particulars are based on the measurement

extracted from the Track Index Register maintained by the Civil Engineering Department of Trivandrum Division. Though it was originally declared as Ghat section in 1984 and in 1986, subsequent upgradation of the track between Ollur-Pudukkad Down line in Shornur-Cochin Harbour Terminus revealed that the same does not qualify for payment of Ghat section inflated mileage. As per A1, only Wadakkancherry-Mulangunnathukavu Down line representing 3.74 Kms out of 7.49 Kms in the block section, which is having a ruling gradient of 1 in 80, became eligible for payment of Ghat Section mileage. This itself is clear and unambiguous that there are no other sections identified as eligible for payment of Ghat Section mileage in Down line in Shornur-Cochin Harbour Terminus section.

5. From a plain reading of A1 it cannot be said that what the respondents say in the reply statement is in tune with what is contained in A1. Though respondents say that it is clear and unambiguous, we feel that it lacks clarity and it contains ambiguity.

6. For adjudication of the question involved herein, factual aspects are to be considered. Adjudication of factual aspects is to be done by the administration in the first instance. That being the case, the matter is to be looked into by the administration in the first instance.

7. Accordingly, applicants 3 and 4 are permitted to submit a joint representation to the General Manager, Southern Railway, Madras, through proper channel, within three weeks from today. If such a representation is received, the General Manager, Southern Railway, Madras shall consider the same and pass appropriate orders as expeditiously as possible. The

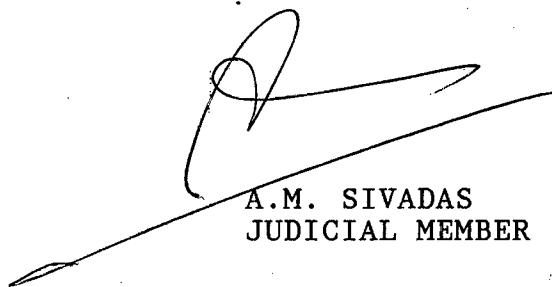
interim order dated 11-3-1999, which was extended till the disposal of the OA as per order dated 25-6-1999, shall continue in force till the disposal of the joint representation.

8. The Original Application is disposed of as above. No costs.

Wednesday, this the 20th day of June, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of the Office Order No: T 68/98 dated 19-11-1998 issued by the 3rd respondent.
2. A2 True copy of the letter No. V/TP 15/P dated 7-12-1998 issued by the 4th respondent.
3. A3 True copy of the Order No. V/TP 45/P dated 10-1-1997 issued by the 4th respondent.