

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH  
LUCKNOW**

**Original Application No. 227/11**

**Order Reserved on 22.4.2015**

**Order Pronounced On 08/5/15**

**HON'BLE MR. NAVNEET KUMAR, MEMBER(J)**

Jagdeo aged about 66 years S/o Sri Lakhai R/o 17 A, Rajajipuam Para Road , Ram Vihar Colony, Lucknow.

**Applicant**

**By Advocate Sri A. Moin.**

**VERSUS**

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager (Personnel) North Eastern Railway Ashok Marg Lucknow.

**Respondents**

**By Advocate Sri Rajendra Singh.**

**ORDER**

**HON'BLE MR. NAVNEET KUMAR, MEMBER(J)**

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (i) To quash the impugned order dated 16.2.2011 passed by Respondent No. 2 as contained in Annexure A-1 to the O.A.
- (ii) To direct the respondents to pay 30% Running Allowance to the applicant for the period from June 2002 till 30.11.2004 along with interest @ 18% p.a. on the arrears thereon.
- (iii) To direct the respondents to pay to the cost of this application.
- (iv) Any other order which this Hon'ble Tribunal deem just and proper in the circumstances of the case be also passed.

2. The brief facts of the case are that the applicant was working with the respondents organisation claims 30% running allowance. It is indicated by the learned counsel for the applicant that in the year 1991, on account of closure of Diesel Car Shed in Kanpur, the applicant was transferred and posted in Loco Shed

Charbag Lucknow as Fireman II Grade and continued to work in the said capacity and was extended the restructuring benefit and his pay scale was upgraded to Rs. 950-1500/-. It is also indicated by the learned counsel for the applicant that post of the applicant falls within the category of running post and the running staff is entitled to the actual running allowance and the said running allowance means the allowance granted to non-gazetted Railway servants for the purpose of duty directly connected with the charge of moving trains as per Railways Boards order issued on the subject and departmental examination was conducted wherein the applicant along with several Fireman II appeared in the year 1995 and the applicant passed the said examination and also passed the training and Diesel conversion course.

3. Subsequently, the result was declared in 1998 wherein the applicant was declared successful but instead of posting the applicant as Diesel Assistant, his juniors in the select panel were posted as Diesel Assistants in January 1999, whereas the applicant has been asked to work in the commercial department.

4. The applicant preferred O.A. No. 558 of 1999 and the Tribunal by means of an order dated 23.12.1999 stayed the impugned order dated 9.12.1999 and in pursuance thereof, the applicant continued to work as Fireman II till the decision of the case. Since the applicant was continuing to work as Fireman II, he was regularly receiving 30% running allowance. The said O.A. was subsequently decided and the O.A. was allowed vide order dated 19.11.2003 and the order dated 9.12.1999 was quashed and it was directed to the respondents to promote and induct the applicant as Diesel Assistant from the date his juniors were promoted without consequential benefits. In pursuance of the

same, the applicant was granted the Grade of Rs. 3050-4590 w.e.f. 10.12.2004 as Diesel Assistant and thereafter to the post of Senior Diesel Assistant grade Rs. 4000-6000/- w.e.f. 10.12.2004 by means of order dated 1.2.2006.

5. It is also to be indicated that the respondents preferred the review application as well as the Writ Petition before the Hon'ble High Court. The applicant being aggrieved for non payment of 30% Running allowance submitted the number of representations and finally the respondents have passed an order on 16.2.2011 through which it is indicated that since the applicant was declared surplus as such, he is not entitled to 30% running allowance. It is also indicated by the learned counsel for the applicant that since the applicant continued to work as Fireman II on the basis of interim stay granted by the Tribunal as such he is entitled to 30% running allowance.

6. On behalf of the respondents reply is filed and through reply, it is indicated by the respondents that as per the order of the Chief Personnel Officer dated 11/19.12.1996, the surplus employees are not entitled to the benefit of allowance of 30% in lieu of running allowance as such, it is indicated as to under what Rules the surplus employees have been given the benefit of 30% allowance in lieu of running allowance and as to whether the same is still being paid or recovery is being made. Through reply it is indicated by the respondents that the applicant was promoted as Diesel Assistant w.e.f 1.3.1993 under restructuring benefit and he was given the benefit of promotion at par with his junior vide letter dated 10.12. 2004. It is also indicated by the respondents that Fireman-II after being declared surplus category was not involved in the running work of the train as such, the applicant was working on the surplus post of

Fireman-II and hence the applicant having worked as Fireman which relates to Steam Loco is not entitled for running allowance. Apart from this, the learned counsel for the respondents is also relied on the order dated 18.3.1997 which clearly shows that the surplus staff is not entitled for running allowance @ 30%.

7. On behalf of the applicant rejoinder is filed and through rejoinder mostly the averments made in the O.A. are reiterated and the contents of the counter reply are denied.

8. Not only this, the respondents have filed the supplementary counter reply and also relied upon that the applicant is not entitled for running allowance since he was rendered surplus staff and as per the rules surplus staff is not entitled for running allowance and has relied upon the orders dated 19.12.1996 and 18.3.1997 as well as Draft Paragraph No. 3/2002.

9. On behalf of applicant, supplementary rejoinder is filed.

10. Heard the learned counsel for the parties and perused the record.

11. The applicant was working with the respondents organisation and on account of closure of Diesel Car Shed in Kanpur, the applicant was transferred and posted in Loco Shed Charbag Lucknow as Fireman II in the grade of Rs. 825-1200/- and continued to work in the said capacity and was also extended the restructuring benefit and his pay scale was upgraded to Rs. 950-1500/-. The applicant appeared in the departmental examination for filling up the vacancies of Diesel Assistants, the applicant was declared successful, but he was not posted whereas juniors in the panel were posted as Diesel

Assistants in January 1999 by order dated 9.12.1999 as such the applicant preferred an O.A. before the Tribunal vide O.A. No. 558 of 1999 and by means of an order dated 23.12.1999, the applicant continued to work as Fireman-II till the decision of the case.

12. It is to be indicated that the applicant has not worked as Diesel Assistant. It is also indicated by the applicant that he was regularly received 30% running allowance which he continued to receive till May 2002. Subsequently the said O.A was finally allowed and the respondents were directed to promote and induct the applicant as Diesel Assistant and accordingly the applicant was promoted as Diesel Assistant in grade of Rs. 3050-4590/- w.e.f. 10.12.2004 and also to the post of Senior Diesel Assistant grade Rs. 4000-6000/- w.e.f. 10.12.2004 by means of order dated 1.2.2006.

13. The Review is preferred by the respondents but the said review application was dismissed. It is also to be indicated that the respondents have also preferred Writ Petition No. 985 of 2004 (SB) before the Hon'ble High Court and the said Writ Petition was also disposed of by the Hon'ble High Court in 2009.

14. The claim of the 30% allowance was considered and rejected by the authorities on the ground that the post of Fireman was declared surplus as such, he is not entitled to the running allowance. The learned counsel for the respondents relied upon the circulars/ letters dated 19.12.1996 and 18.3.1997 as well as Draft No. 3/2002 through which it is categorically indicated that on account of closure of Steam Loco Sheds the rules do not envisage payment of running allowance.

15. It is further to be mentioned that the applicant continued to work as Fireman II on the basis of the interim order granted by the Tribunal and the said O.A. was finally decided to grant

promotion to the applicant and the applicant has already been promoted.

16. Considering the submissions made by the learned counsel for the parties and also after perusal of the record, since the post of Fireman II was rendered surplus on account of closure of Steam Engine Loco Shed, the applicant is not entitled to get 30% running allowance. he continued on the said post only on the strength of the interim order.

17. Accordingly, the O.A. is dismissed. No order as to costs.

VR. Agrawal  
(Navneet Kumar)  
Member (J)

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