

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 579/97

24.6.98

Date of Decision:

Sgri Elias Mohd. and others. Applicant.

Shri K.B. Talreja. Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri V.S. Masurkar. Advocate for
Respondent(s)

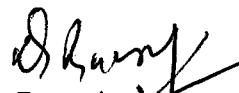
CORAM:

Hon'ble Shri. D.S. Baweja, Member (A)

Hon'ble Shri.

(1) To be referred to the Reporter or not? ✓

(2) Whether it needs to be circulated to ~~other~~ other Benches of the Tribunal? ~~X~~


(D.S. Baweja)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO: 6
PRESCOT ROAD MUMBAI:1

Original Application No. 579/97

the 24th day of June 1998

CORAM: Hon'ble Shri D.S. Baweja, Member (A)

Shri Elias Mohd,
Shunter/Trombay.

Shri Madhusudan,
TNC/Trombay.

Shri Harlapa,
TCC/Trombay.

Shri Abdul Rehaman,
Gate Man/Trombay.

Shri Ravindra,
Pointsman/Trombay.

Shri Prakash,
Shunting Jamadar/Trombay.

Shri S.Sikaman,
Pointsman/Trombay.

Shri Hanumantha,
Pointsman/Trombay.

Shri Jagdish,
Dy. C.Y.M./Trombay.

Shri M.K. Jadhav,
A.Y.M./Trombay.

Eknath Patil,
Shunting Jamadar/Trombay.

Dinesh Kumar,
TNC/Trombay.

Hamid Babu,
Pointsman/Trombay.

S.Kalidasan,
Pointsman/Trombay.

Venkatrao,
Pointsman/Trombay.

Lalji Pant,
Pointsman/Trombay.

M. Palavasin,
Pointsman/Trombay.

Madhukar Yadu,
Pointsman/Trombay.

Subash Shankar,
Pointsman/Trombay.

R.R. Pathak,
Pointsman/Trombay.

E.J. D'Mellow,
Sr. T.N.C. /Trombay.

... Applicants.

All working under Divisional Railway
Manager, Central Railway, Mumbai
CST.

By Advocate Shri K.B. Talreja.

V/s.

Union of India through
the General Manager,
Central Railway,
Mumbai CST
Mumbai.

The Divisional Railway
Manager,
Central Railway,
Mumbai CST,
Mumbai.

... Respondents.

By Advocate Shri V.S. Masurkar.

O R D E R

(Per Shri D.S. Baweja, Member (A))

This application has been filed jointly
by 21 applicants. The applicants are staff of
Operating department posted in Trombay Yard under the
control of Divisional Railway Manager, Central Railway
Mumbai C.S.T. Mumbai.

2. The case of the applicants is that they
have been issued free Railway Passes for travelling
from their residences to Kurla Railway Station, which
is the nearest Railway station to Trombay Yard. For
going to Trombay Yard, Shuttle service was earlier
introduced since the starting of the Trombay Yard
in 1956. The Shuttle service was dis-continued in
1981. The shuttle service was however again
introduced in 1989 and thereafter dis-continued since
1991. The applicants are now required to go to
Trombay Yard from Kurla Station by bus service and

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pay from their pocket, for the fare. The applicants submit that though the staff of the other departments namely Carriage and Wagon, Commercial Department, Diesel Shed, Shunters and Drivers are being paid the conveyance charges by way of re-imbursement of the bus fare, for going to Trombay Yard, but the applicants working in operating department have been denied the same. The applicants have further stated that the staff working in the other Yards of the Central Railway are also being paid the conveyance allowance for going to the Yard from the nearest Railway Station. Thus the applicants are being given discriminatory treatment in violation of Article 14 and 16 of the Constitution of India. The applicants have also contended that non-provision of shuttle service and non-grant of conveyance allowance is in violation of Rules 1606(1)(2) and (3) of the Railway Establishment Code, Volume II. The applicants have made several representations but they have not been allowed conveyance allowance. Feeling aggrieved, the present application has been filed on 27.6.97.

3. In the background of the above facts, the applicants have sought the following reliefs through this application.

(a) The respondents be directed to either provide with conveyance from Kurla Railway Station to Trombay Yard or re-imburse the bus fare actually being spent by the applicants as is being provided to other staff of various departments.

(b) The respondents be directed to pay the arrears of conveyance allowance for the period they have not been provided conveyance for going to Trombay Yard alongwith interest of 12% per annum.

4. The respondents have contested the claim of the applicants through their written statement. The respondents have submitted that the staff of other departments ^{are} headquartered at Kurla and are being re-imbursed bus fare as and when the staff of other departments are deputed for duty to Trombay Yard. In view of this factual position, the respondents contended that there is no discrimination and violation of Article 14 and 16 of the Constitution of India. The respondents have further averred that the applicants have been provided with free residential card passes for travelling from their residences to the nearest Railway Station. It is further brought out that the Railway Board have recently laid down the instructions with regard to the payment of transportation allowance, in pursuance to the recommendations of 5th Pay Commission as per order dated 16.12.97, brought on record at R1. The respondents state that in case the applicants desire to avail the travelling allowance from Kurla Station to Trombay Yard, then they have to exercise the option of surrendering the free residential card passes issued to them. The respondent's contention is that the grievance of the applicants is to be dealt with as per the instructions laid down vide order dated 16.12.97 and the Divisional Railway Manager or the **General** Manager has no power to modify the

rules as laid down. Relying upon these facts, the respondents plead that the applicants are not entitled for any relief^{of the} and the application deserves to be dismissed.

5. The applicants in their rejoinder reply have re-iterated the submissions made in the O.A. The applicants have contended that the Railway Board's circular dated 16.12.97 is not applicable to their case as it is not mandatory and the staff has to exercise option.

6. Heard the arguments of Shri K.B. Talreja counsel for the applicants and Shri V.S. Masurkar counsel for the respondents. The material brought on record has also been carefully gone through.

7. It is admitted fact that the applicants have been issued free residential card passes upto Kurla Railway Station and the shuttle service running from Kurla to Trombay has been discontinued since 1991, keeping in view of the heavy density of traffic. The main case of the applicants is that they are being discriminated by denying the payment of the bus fare from Kurla Railway Station to Trombay Yard as the staff of other department are being re-imburised the bus fare. The respondents however have stated that the staff of other departments are headquartered at Kurla while the applicant's headquarters is at Trombay Yard. This has not been denied by the applicants. With this situation, the plea of discrimination advanced by the applicants is not tenable. The staff of other department whose headquarters is at Kurla if directed to go to Trombay Yard, it is but natural that they are reimbursed

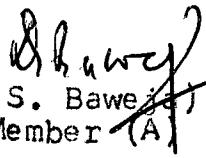
the bus fare for going on duty. While for the applicant's the place of duty is Trombay Yard.

8. The applicants have relied upon the provisions of Rule 1605(1)(2) (3) of Railway Establishment Code Volume II. The Rule has been extracted in the rejoinder reply. On going through the Rule carefully, it is noted that the provisions of this Rule does not come to rescue the applicant's case. Rule 1606 lays down that in case the staff is required to travel extensively at or within a short distance from his headquarters, the staff may be paid monthly conveyance allowance instead of reimbursement of the conveyance charges on day today basis. As brought out earlier, the case of the applicants is entitely different. They are required to go for duty from Kurla Railway station to Trombay Yard which is their headquarter. Therefore the provisions of this rule do not apply to the applicant's case.

9. The respondents have stated that the case of the applicants is covered by the instructions laid down as per letter dated 16.12.97. I have carefully gone through the contents of this letter. This letter lays down the instructions regarding payment of transportation allowance from residence to place of work. The issue involved in the present O.A. is also concerning travelling between the residence and the place of work. Therefore, I am of the considered opinion that the applicant's case is covered by the instructions as laid down in the letter dated 16.12.97. Note 3 of this letter deals

with the case of the staff who are presently availing the facility of residential card passes. The applicants are also getting free Railway Card Passes from residence to Kurla Railway Station and therefore in case they demand for re-imbursement of actual bus fare from Kurla Railway Station to Trombay Yard, then they are required to exercise the option either to surrender the free residential card pass or avail the transportation allowance or continue with the present system. Keeping in view these provisions laid down in the letter dated 16.12.97, I am inclined to agree with the respondents' submission that the case of the applicants is governed by provisions of this rule. In view of this, the reliefs claimed by the applicants are not sustainable.

10. In the light of the above, I am ~~unable~~ to find any merit in the O.A. Accordingly the O.A. is dismissed. No order as to costs.


(D.S. Bawali)
Member (A)

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