

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 703 of 2003
Original Application No. 704 of 2003
Original Application No. 778 of 2003
Original Application No. 99 of 2004
Original Application No. 551 of 2004
Original Application No. 552 of 2004
Original Application No. 553 of 2004
Original Application No. 554 of 2004
Original Application No. 578 of 2004
Original Application No. 579 of 2004
Original Application No. 581 of 2004

Bilaspur, this the 3rd day of February, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. **Original Application No. 703 of 2003 :**

1. Ramanand Saxena, son of late Shyamlal Saxena, Retired Executive Engineer/Law Officer, Western Railway, Resident of A-39, Indrapuri Colony, Sethi Nagar, Ujjain.
2. Kishan, son of Modkuji Neware, Retired Asstt. Station Master, Western Railway, Ratlam Division, Resident Of LIG-413, Indira Nagar, Agar Road, Ujjain.
3. Maniram, son of B.P. Bhotoriya, Retired Chief Train Controller, Western Railway, Ratlam Division, Resident Of 121-A, Viveka Nand Colony, Ujjain.
4. Bhaskar, son of Tukaram Mane, Retired Asstt. Station Master, Western Railway, Ratlam Division, Resident of 137, Prakash Nagar, Free Gunj, Ujjain.
5. Shantilal, son of late Ratanlal Barmecha, Retired Asstt. Personnel Officer, Western Railway, Kota, Resident of Shanti Nagar, Ratlam.

Applicants

(By Advocate – Shri S.L. Vishwakarma)



V e r s u s

1. Union of India, through General Manager, Western Railway/West Central Railway, Churchgate, Mumbai/Jabalpur.
3. Secretary, Railway Board, Rail Bhavan, New Delhi.
4. Divisional Railway Manager, Western Railway, Ratlam/Kota.

Respondents

(By Advocate – Shri V. Saran)

2. Original Application No. 704 of 2003 :
1. Balbir Singh Gill, Retired Chief Clerk, PWI/Ujjain.
2. Ramdeo Sharma, Retired IOW/Ratlam Division.
3. Manohar Ganesh Muley, Retired Station Supdt. Ratlam Division.
4. M.V. Namjoshi, Retired CPWI/Ujjain.
5. Ramchandra Bhagirath, Retired Chowkidar, IOW/Ujjain.
6. Mohanlal Sharma, Retired ARS/Ujjain.
7. Vasant Vasudeo Sant, Retired DCWI/Ujjain.
8. Ranchhod Prasad Dubey, Retired Chief Clerk, PWI/Ujjain.
9. Balkishan Nagar, Retired ITT-Ratlam Division.
10. Shridhar Karpe, Retired Driver, Ujjain.
11. Vishwas Wadge, Retired Chief Clerk, Ratlam Division.
12. Shankerlal Vishwakarma, Retired DPO/Ratlam.
13. Shyamlal Sagar, Retired APO/Ratlam.
14. Hamidullah Qureshi, Retired Office Supdt., Ratlam Division.

15. T.P. Narayan, Retired Station Supdt. Ujjain.
16. M.K. Rawal, Retired Chief Health Inspector, Ujjain.
17. Annant Narain Bhatt, Retired APO(HQ), Western Railway, HQrs CCG.
18. Jaliluddin Siddiqui, Retired Clerk, Ratlam Division.
19. Dinkar Supekar, Retired TTI/Ujjain.
20. Ganesh Shanker Deshpande, Retired Fitter, Loco Ujjain.
21. Omprakash Kalra, Retired Guard, Ujjain.
22. Sudhakar Gopalrao, Retired Khallasi, Ratlam Division.

Applicants

(By Advocate – Shri S.L. Vishwakarma)

V e r s u s

1. Union of India, through General Manager, Western Railway, Churchgate, Mumbai.
2. Secretary, Railway Bopard, Rail Bhavan, New Delhi.
3. Divisional Railway Manager, Western Railway, Ratlam.

Respondents

(By Advocate – Shri V. Saran)

3. **Original Application No. 778 of 2003**:
1. Vinod Singh, Devisingh Chandrawat, Retired SPO(R), H.Qrs. Office.
2. Narendra Singh Slanki, Guard, Ujjain.
3. Gorachand Ghosh, Guard, Ujjain.
4. Kalicharan Shrivastava, Guard, Ujjain.
5. Satya Nairain B. Nigam, Fitter, Loco Ujjain.
6. Rameshwar Nath Pradhan, Chief Loco Inspector, Ujjain.



7. Bhagwan Dutt Shukla, Chief Loco Inspector, Ujjain.
8. Abhilash Bihari Saxena, Guard, Ujjain.
9. Eknath Ram Tukaram Chaudhary, Guard, Ujjain.
10. Laxmikant Chintaman Katdare, Station Superintendent, Ujjain.
11. Madhukar A Ingle, Guard, Ujjain.
12. Manohar Lal Vyas, Guard, Ujjain.
13. Chandra Kishore Sharma, Sr. Loco Inspector, Ujjain.
14. Rajendra Nath B. Dixit, Guard, Ujjain.
15. Raghunandan Prasad Upadhyay, Guard, Ujjain.
16. Sudhir Nath Chakrbarty, Guard, Ujjain.
17. Shambhu Prasad R. Tiwari, Guard, Ujjain.
18. Omprakash B. Gautam, Guard, Ujjain.
19. Keshwala Bhanwarlal Bendwal, Guard, Ujjain.
20. Digvijai Singh Gaur, Sr. Teacher, Railway Higher Sec. School, Ratlam.
21. Guneshwar Ramlal Mehta, Asstt. Personnel Officer, W. Rly. Ratlam.
22. Bhagwandas Makanji Agarwal, Chief Welfare Inspector, Ratlam.
23. Shantilal Agarwal, Personal Asstt. Divl. Rly. Manager, Ratlam.
24. Chiman Bhai K. Electric Fitter Grade I Ujjain.
25. Rao Sahib Kadji Rao, Driver, Loco Ujjain.
26. Nazir Khudabux, Driver, Loco Ujjain.
27. Dori Lal Surajlal, Driver, Loco Ujjain.



28. Bhal Chandra S, Head Clerk, PWI/Ujjain.

29. Bhanwarlal Onkarlal, Driver, Loco, Ujjain.

30. Cyprtan Fala, Driver, Loco Ujjain.

31. Umrao Prasad Munnalal, Chief Ticket Inspector, Ujjain.

32. Ram dayal Rampal, Khallasi C&W, Ujjain.

33. Prabhakar Bhalerao, Head Clerk AEN/Ujjain.

34. Rupendra Prasad Rambharose, Driver, Loco Ujjain.

35. S.K. Vyas, Guard, Ujjain.

36. Gafoor Khan Khajoo Khan, Khallai, Loco Ujjain.

37. Kanhiyalal Chaurasia, Sr. Fuel Inspector, Ratlam.

Applicants

(By Advocate – None)

Versus

1. Union of India, through General Manager, Western Railway/West Central Railway, Churchgate, Mumbai/Jabalpur.

2. Secretary, Railway Board, Rail Bhavan, New Delhi.

3. Divisional Railway Manager, Western Railway, Ratlam/Kota.

Respondents

(By Advocate – Shri V. Saran)

Original Application No. 99 of 2004 :

1. Bhagwandas Makanji Agarwal, Retired Chief Wefaaare Inspector, L/86, Sukhda, Jawahar Nagar, Ratlam.

2. Sheshrao Shivaram, Retired Fitter, 329, Nehru Nagar, Indore.

3. Shivalal Chhagan, Retired Driver, CTCC-Ratlam, 69, Anand Nagar, Ujjain.



(By Advocate – Shri S.L. Vishwakarma)

V e r s u s

1. Union of India, through General Manager, Western Railway, Churchgate, Mumbai.
2. Secretary, Railway Board, Rail Bhavan, New Delhi.
3. Divisional Railway Manager, Western Railway, Ratlam. Respondents

(By Advocate – Shri D.S. Patel on behalf of Shri Y.I. Mehta)

5. Original Application No. 551 of 2004 :

O.P. Shrivastava,
S/o. Late Shri Shyamlal Shrivastava,
Aged – 68 years, Occupation – Retd. R/o. :
MIG 95, Kishore Nagar, B.T. College Road,
Khandwa (MP). Applicant

6. Original Application No. 552 of 2004 :

Shankarlal Bathari, S/o. Shri Gendalal Bathari,
Aged – 68 years, Occupation – Retd., R/o. 11,
Benind LIC Office, Civil Line, Khandwa,
(MP) Applicant

7. Original Application No. 553 of 2004 :

Babulal Kajle, S/o. Shri Shankarlal Kajle,
Aged – 69 years, Occupation – Retd., R/o. : 66.
Jai Nagar, ITI Road, Khandwa (MP). Applicant

8. Original Application No. 554 of 2004 :

Gajanand Pathrikar, S/o. Shri Marutirao Pathirikar,
Aged – 69 years, Occupation – Retd., R/o. : Old
Power House, In front of Kapadiya Garden,
Khandwa (MP). Applicant

(By Advocate – Shri S.P. Vakte in OAs Nos. 551/2004, 552/2004,
553/2004 and 554/2004)



V e r s u s

1. The Union of India, through the Secretary to the Govt. of India, Ministry of Railway, Delhi (India).
2. The Divisional Railway Manager, Settlement Section, Central Railway, Bhusawal (MS).
3. The Chief Account Officer, Central Railway, Bhusawal (MS).
4. The FA & CAO (Pension), Central Railway, New Administrative Building, CST, Mumbai (MS).

Respondents

(By Advocate – Shri M.K. Sharma in OAs Nos. 551/2004, 552/2004, 553/2004 and 554/2004)

9. Original Application No. 578 of 2004 :

Shrikrishna Kulkarni, S/o. Shri Appaji Kulkarni, Aged – 67 years, Occupation – Retd., R/o. : 99, Rama Colony, Khandwa (MP).

Applicant

(By Advocate – Shri S.P. Vakte)

V e r s u s

1. The Union of India, through the Secretary to the Govt. of India, Ministry of Communication, Department of Posts, Delhi (India).
2. The Chief Postmaster General (Posts), M.P. Circle, Bhopal (MP).
3. The Postmaster General, Department of Post, Office of the PMG, Raipur Region, Raipur (CH).
4. The Sr. Superintendent of Post Offices, Shahdol, (MP).

Respondents

(By Advocate – None)

10. Original Application No. 579 of 2004 :

Vasant Pendse, S/o. Shri Vitthalrao Pandse, Aged – 68 years, Occupation – Retd., R/o. :



Bapatwada, Hariganj, Khandwa (MP). **Applicant**

11. Original Application No. 581 of 2004 :

Dattatre Borgaonkar, S/o. Shri Pandurang
Borgaonkar, Aged – 63 years, Occupation –
Retd. (VRS), R/o. : 30, Vithal Nagar Colony,
Jaswadi Road, Khandwa (MP).

Applicant

(By Advocate – Shri S.P. Vakte in OAs Nos. 579/2004 & 581/2004)

V e r s u s

1. The Union of India, through the Secretary to the
Govt. of India, Ministry of Communication,
Department of Posts, Delhi (India).
2. The Chief Postmaster General (Posts),
M.P. Circle, Bhopal (MP).
3. The Postmaster General, Department of Post,
Office of the PMG, Indore Region, Indore (MP).
4. The Sr. Superintendent of Post Offices,
Khandwa, District Khandwa, (MP). **Respondents**

(By Advocate – None in OAs Nos. 579/2004 & 581/2004)

O R D E R (Common)

By Madan Mohan, Judicial Member –

As the issue involved in all the aforementioned cases is common and the facts and grounds raised are identical, for the sake of convenience these Original Applications are being disposed of by this Common order.

2. By filing these Original Applications the applicants have claimed the following main reliefs :

OAs Nos. 703/2003, 704/2003, 778/2003 & 99/2004 :

“8.1 quash Govt. of India, Ministry of Personnel, PG and Pension, Department of Pension and Pensioner's Welfare letter No. 45/86/97P & PW(A), dated 18/2003 circulated under Railway Board's letter No. F(E)-III/2000/PN!/57, dated 20.5.2003 further circulated by General Manager, Western Railway on 29.5.2003 and



DRM/RTM on 16.6.2003 Annexure A-1, being arbitrary, discriminatory and unlawful,

8.3 to hold and declare the date of effect notified as 16.9.1993 in Railway Board's letter dated 25.11.1993 Annexure A-4 and 1.4.1994 in Railway Board's letter dated 8.8.1995 Annexure A-2 as arbitrary illegal and unconstitutional,

8.4 hold and declare the cut off dates as 16.9.1993 and 1.4.1995 Annexure A-2 and A-4 for the purpose of counting dearness allowance @ 20% and 97% after treating/inking it to All India Consumer Price Index level of 729.91 Annexure A-4 1201.61 Annexure A-2 as discriminatory in violation of Article 14 and wide of mark,

8.5 the date of effect in Railway Board's letter of 8.8.91 Annexure A-2 and 17.9.1993 Annexure A-4 be quashed and set aside and further hold that such benefit may be granted to the applicants who retired between 1.1.1986 and 31.12.1995 on the basis of dearness admissible to them on the dates of their retirement. In other words applicants may be declared to be entitled to include dearness allowance in wages for the purpose of calculation of gratuity as has been held by the Railway Board in their letter dated 25.2.2002 Annexure A-9,

8.6 interest @ 12% p.a. may be allowed by this Hon'ble Tribunal."

OAs Nos. 551/2004, 552/2004, 553/2004, 554/2004, 578/2004, 579/2004 and 581/2004 :

"(ii) to direct the respondent to recomputed the death cum retirement gratuity payable to the applicant and pay the difference of amount of death cum retirement gratuity to the applicant with 12% interest thereon,

(iii) to allow these applications with cost."

3. The brief facts of the case in OA No. 703 of 2003 are that the applicants were in service of the respondents. They have retired from the Railway service with effect from 1.7.1993 to 31.3.1995 and no portion of dearness allowance was treated as dearness pay for the purpose of Retirement Gratuity and Death Gratuity. The Railway Board vide its letter dated 25.11.1995 decided that in the cases of employees who retire/die on



or after 16th September, 1993, the 20% of the dearness allowances shall be treated as dearness pay. The dearness pay will count as emoluments for the purpose of DCRG. Further the Railway Board on 8.8.1995 (Annexure A-2) decided on the lines of Government of India, ministry of Personnel, Public Grievances and Pensions (Department of P & PW) letter dated 14.7.1995 (Annexure A-3) to treat 97% of dearness allowances as dearness pay from 1.4.1995 in the case of Central Government employees and reckon it for DCRG. The Full Bench of the CAT, Mumbai Bench in its judgment in OAs Nos. 542 and 943 of 1997 on 21.9.2001 has struck down the memorandum dated 14.7.1995 (Annexure A-4) with observation that there was no nexus or rational consideration in fixing the cut off date of 1.4.1995. The Vth Central Pay Commission in its final recommendations recommended that dearness allowance linked on All India Consumer Price Index should be included in the definition of emoluments for all kind of gratuity and ceiling on DCRG enhanced to Rs. 3.50 Lakhs. Since all the applicants served the Railway administration, Ministry of Railways though retired prior to 1.1.1996 and all of them are in receipt of regular monthly pension/modified pension as per the recommendations of the Vth Central Pay Commission, at par with those Railway servants who retired on or after 1.1.1996, they are entitled to get the benefit of the scheme of including 100% of dearness allowance in the pay for the purpose of payment of DCRG at par with post 1.1.1996 pensioners. In this regard the applicants submitted their representation but instead of arranging payment of DCRG as due, the respondents have negated the claim of the applicants vide letter dated 18.2.2003. Hence, this Original Application is filed.

3.1 The brief facts of the case in OA No. 704 of 2003 are that the applicants retired from Railway service between 1.1.1986 to 15.9.1993. They were entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG at par with post 1.4.1995 pensioners. In this regard they submitted



representation which was rejected by the respondents vide letter dated 18.2.2003. Hence, this Original Application is filed.

3.2 The brief facts of the case in OA No. 778 of 2003 are that the applicants retired from Railway service between 1.1.1986 to 31.3.1995. They were entitled to get the benefit of the scheme of including 100% dearness allowance in the pay for the purpose of payment of DCRG at par with post 1.1.1996 pensioners. In this regard they submitted representation which was rejected by the respondents vide letter dated 18.2.2003. Hence, this Original Application is filed.

3.3 The brief facts of the case in OA No. 99 of 2004 are that the applicants retired from Railway service between 1.1.1986 to 31.12.1995. They were entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG at par with post 1.4.1995 pensioners. In this regard they submitted representation which was rejected by the respondents vide letter dated 18.2.2003. Hence, this Original Application is filed.

3.4 The brief facts of the case in OA No. 551 of 2004 are that the applicant retired from service on 31.5.1994. At the time of his retirement he was working on the post of Yard Master. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representations dated 8.5.1998 and 12.1.1999 to the respondents. These representations of the applicant are still pending for consideration. Hence, this Original Application is filed.

3.5 The brief facts of the case in OA No. 552 of 2004 are that the applicant retired from service on 1.10.1994. At the time of his retirement he was working on the post of Chief Ticket Inspector. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted



representation dated 3.6.2004 to the respondents. This representation of the applicant is still pending for consideration. Hence, this Original Application is filed.

3.6 The brief facts of the case in OA No. 553 of 2004 are that the applicant retired from service on 31.03.1994. At the time of his retirement he was working on the post of HS Fitter. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representation dated 20.11.2002 to the respondents. This representation of the applicant is still pending for consideration. Hence, this Original Application is filed.

3.7 The brief facts of the case in OA No. 554 of 2004 are that the applicant retired from service on 28.02.1995. At the time of his retirement he was working on the post of Chief Banking Supervisor. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representations dated 13.2.2002 and 13.6.2002 to the respondents. These representations of the applicant are still pending for consideration. Hence, this Original Application is filed.

3.8 The brief facts of the case in OA No. 578 of 2004 are that the applicant retired from service on 1.04.1994. At the time of his retirement he was working on the post of Superintendent of Post Offices, Shahdol Division, Shahdol. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representation dated 3.7.2004 to the respondents. This representation of the applicant is still pending for consideration. Hence, this Original Application is filed.

3.9 The brief facts of the case in OA No. 579 of 2004 are that the applicant retired from service on 31.08.1994. At the time of his retirement he was working on the post of Asstt. Postmaster. He was entitled to get



the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representation dated 5.6.2004 to the respondents. This representation of the applicant is still pending for consideration. Hence, this Original Application is filed.

3.10 The brief facts of the case in OA No. 581 of 2004 are that the applicant retired from service on 4.07.1994. At the time of his retirement he was working on the post of Mail Overseer. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representation dated 21.6.2004 to the respondents. This representation of the applicant is still pending for consideration. Hence, this Original Application is filed.

4. Heard the learned counsel for the parties in OAs Nos. 703/2003, 704/2003, 99/2004, 551/2004, 552/2004, 553/2004 and 554/2004.

4.1 None was present for the applicant in OA No. 778/2003. Since it was an old case of 2003, we proceed to dispose of the said Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987 and after hearing the learned counsel for the respondents.

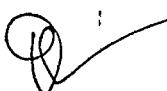
4.2 None was present for the respondents in OAs Nos. 578/2004, 579/2004 and 581/2004. We proceed to dispose of these Original Applications by invoking the provisions of Rule 16 of CAT (Procedure) Rules, 1987 and after hearing the learned counsel for the applicants.

5. It is argued on behalf of the applicants that the judgment of the Full Bench of CAT Mumbai Bench in OAs Nos. 542 and 943 of 1997 on 21.9.2001 had struck down the memorandum dated 14.7.1995 observing that there was no nexus or rational consideration in fixing the cut off date of 1.4.1995. The Full Bench allowed the said OAs and held that the

applicants who retired between 1.7.1993 to 31.3.1995 are entitled to the benefits of the scheme of merger of 97% DA in the pay for the purpose of emoluments for calculating death/retirement gratuities.

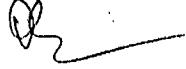
6. On the other hand, the learned counsel for the respondents has stated that the applicants have filed the present OAs in pursuance of the judgment passed by the CAT, Mumbai Bench on 21.9.2001 and the Government has already filed a Writ Petition before the Hon'ble High Court at Mumbai and the Hon'ble High Court has admitted the said WP on 29.4.2002 and now the matter is subjudice. The Hon'ble Supreme Court in SLP No. 18367/2002 (arising from the order dated 3.5.2002 in CWP 4995/97 of Hon'ble High Court of Punjab & Haryana at Chandigarh) (State of Punjab & Ors. Vs. Amar Nath Goyal & Ors.) vide order dated 6.1.2003 has stayed the judgment and order dated 3.5.2002. besides this, in an identical case a Review Application No. 134/2002 in OA No. 636/PB/2002 had been filed before the Chandigarh Bench of the Tribunal and the Tribunal vide its order dated 6.6.2003 has revised its earlier order dated 10.7.2002 holding that the benefits shall be granted to the applicants therein after the decision of the Hon'ble Supreme Court if it is favourable. The Hon'ble Supreme Court in Civil Appeal No. 129/2003 (State of Punjab Vs. Amar Nath Goyal) vide order dated 27.7.2004 has directed to transfer the pending writ petition from Bombay High Court to the Hon'ble Supreme Court so that all matters on similar question are finally determined. In another identical case the Bangalore Bench of this Tribunal in OA No. 727/2003 and other connected OAs (M. Damodaran & Ors. Vs. Union of India & Ors.) vide order dated 2.4.2004 has passed the following order :

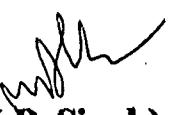
“Accordingly, the applications are disposed of with a direction that the claim of the applicants for revision of pension as well as death-cum-retirement gratuity would be regulated based upon the judgment to be rendered by the Hon'ble Supreme Court in Civil Appeals as well as connected petitions/appeals as cited above.....”



7. We have given careful consideration to the rival contentions and the various decisions relied upon by the learned counsel for the parties. We find that the present cases are squarely covered by the decision of the Bangalore Bench of the Tribunal in the case of M. Damodaran (supra). We also perused the order passed by the Jaipur Bench of the Tribunal in OA No. 617/2003 and find that similar issue has already been dealt with. Hence, we are in respectful agreement with the order passed by the Bangalore Bench of the Tribunal and we hold that the aforesaid order passed by the Bangalore Bench shall be mutatis mutandis applicable to the cases of the present applicants as well.

8. In the result, the Original Applications are disposed of in the above terms. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

“SA”