

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the 21<sup>st</sup> day of April, 2006

ORIGINAL APPLICATION No 480/2005

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

1. Pushpa Kumar s/o late Shri Ram Prasad Mishra, aged about 73 years, retired Driver, Ajmer Division, North Western Railway, Ajmer r/o Chang Chatter Road, Beawer (Rajasthan).
2. Ram Singh s/o Shri Nawal Singh Chauhan, aged about 66 years, retied Shunter, Ajmer Division, North Western Railway, Ajmer r/o Shupura Mohalla, Beawer (Rajasthan).

..Applicants

(By Advocate: Mr. H.S.Chaudhary)

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Director Establishment (Welfare) Railway Board, Rail Bhawan, Rafi Marg, New Delhi.
3. Chief Commercial Manager (Refunds), South Western Railway, Hubli, Karnataka.
4. Divisional Railway Manager, Ajmer Division, North Western Railway, Ajmer.

.. Respondents

*u2* (By Advocate: Mr. Tej Prakash Sharma)

O R D E R

Per Hon'ble Mr. M.L.CHAUHAN

Both the applicants, who are retired railway employees, have filed this OA thereby praying for the following reliefs:-

“(i) By an appropriate writ, order or direction the respondents be directed to refund the amount of Rs. 818/- charged from each applicant most illegally by the Ticket Checking Staff of the Londa Railway Station of South Western Railway, Hubli. The Railway Board be directed to issue proper and detailed guidelines for the proper application of the scheme as contained in Railway Board's letter dated 05.01.1999 (Annexure-A-1 with the O.A.) so that the Retired Senior Citizens may not be subjected to undesired humiliations and harassments in future by the concerning Railway agencies.

(ii) Any other relief which is found just, fit and proper in the facts and circumstances of the matter may very kindly be passed in favour of the applicants by this Hon'ble Tribunal

(iii) The cost of the application be granted in favour of the applicants.”

2. Briefly stated, facts of the case are that the applicants are retired railway employees. It is admitted case between the parties that the Railway Board decided to allow facility of companion in lieu of one attendant to Senior Citizen I Class/AC post retirement complimentary pass holders. For that purpose, the Railway Board has issued R.B.E. No.3/99 dated 5.1.99, copy of which has also been annexed by the applicant as Annexure-A1 along with this OA. The applicants have pleaded that they applied for first class post retirement complimentary passes to cover the railway journey from Beawer to Mettvalayan. It is

Further stated that both the applicants have opted out to have a companion in lieu of the attendant and have submitted in writing in the pass applications that they may be allowed to carry a companion in lieu of the attendant and they both shall travel in Second Class Sleeper coach alongwith their companion instead of traveling in First Class. It is further stated that the pass issuing authority, after verifying the pass applications of both the applicants has issued the passes on 30.11.2004 with the endorsement that "companion in lieu of an attendant permitted when the pass holders travel in Sleeper class/Second Class". According to the applicants, both of them applied for reservation for 29.12.2004 along with their companions by Train No.679 ex Beawer to Mettavalayan. The grievance of the applicants is that when they reached at Londa Station and got down from the train in order to break the journey, the ticket checking staff of Londa Station asked them to show them ticket/pass. It is further pleaded that when passes were shown to the ticket checking staff they informed the applicants that the persons travelling with them on their passes does not fall within the definition of the companion and as such they shall have to pay the charges for tickets for their journey being carried out as without ticket passengers. According to the applicants, both of them were forced to pay sum of Rs. 818/- each for both the companions. It is further stated that they

were also harassed and some unwanted remarks were also passed. It is on the basis of these facts, the applicants have filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was issued to the respondents. The respondents have filed reply. By way of preliminary objections, it has been stated that the present OA is not maintainable as the applicants are seeking direction to refund Rs. 818/- charged from each of the applicant without availing proper remedy before the appropriate forum. It is further stated that this OA is against excess fare of Ticket No.755972 and 752929 by which they were charged the fare issued by Ticket Checking Staff of Londa Railway Station of South Western Railway, Hublee (Karnataka) (Ann.A4). Thus, according to the respondents the cause of action has arisen at Londa Railway Station, hence this Tribunal has got no territorial jurisdiction to entertain the matter. Further, the respondents have stated that the relief as prayed for by the applicants is not a service matter as defined under Section 3(q) of the Administrative Tribunals Act. The relief sought by the applicants is a tortuous liability against charging of Rs. 818/- from each applicant and direction for issuing guidelines on scheme issued vide Railway Board letter dated 5.1.99 and harassment to the applicants are not covered under the service

matter. Hence, no relief can be granted by this Tribunal.

4. The applicants have filed rejoinder thereby reiterating the submissions made in the OA.

5. I have heard the learned counsel for the parties and gone through the material placed on record.

6. It is admitted case between the parties that the Railway Board has decided to allow facility of companion in lieu of attendant to Senior Citizen railway employees holding I class/I 'A' post retirement complimentary passes. It is also not in dispute that the applicants were entitled to undertake journey alongwith one companion as per Railway Board RBE No.3/99 dated 5.1.99. The grievance of the applicants is that the said circular of the Railway Board is not being properly implemented by the subordinate authorities and as such direction may be given to the respondents to issue detailed guidelines for proper application of the scheme as contained in the Railway Board letter dated 5.1.99 (Ann.A1). On the contrary, the stand taken by the respondents is that besides the policy as circulated vide letter dated 5.1.99 (Ann.A1), the Railway Board has also issued relevant circulars which have been published by the Railway Board to all railway administrations of Indian

Railway through Local Access Networking and there is no necessity to issue such direction to Railway Board as prayed for by the applicants in the instant OA. Further, the respondents have categorically stated in the reply that in the garb of issuing direction to the respondents to issue guidelines for enforcement of letter dated 5.1.99, the applicants, in fact, are seeking the relief of refund of Rs. 818/- which amount has been charged from the companions of the applicants through ticket No.755973 and 752929 (Ann.A4) which is not a service matter. In case the companions of the applicants are aggrieved pursuant to fare charged from them, they are not remediless and they can always file claim before the Railway Claims Tribunal regarding refund of fare and certainly the present OA is not the remedy.

7. I have given due consideration to the submissions made by the learned counsel for the parties. I am of the view that the stand taken by the respondents in the reply has to be accepted. As can be seen from Ann.A4. the railway authorites have charged a fare of Rs. 818/- each not from the applicants but from their companions. Those companions are not remediless in case they have been humiliated and Rs. 818/- has been charged from each of the companion. For that purpose, it will be useful to quota Section 13 (1) (b) of the

Railway Claims Tribunal Act, 1987 which thus reads as under:-

“13. Jurisdiction, powers and authority of Claims Tribunal- (1) The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any Civil Court or a Claims Commissioner appointed under the provisions of the Railways Act,-  
(a).....

(b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.”

Thus, in view of Section 13(1)(b) of the Railway Claims Tribunal, I am of the view that the present OA is not maintainable. All that the applicants want in this OA is regarding refund of Rs. 818/- which amount has been charged from each companion of the applicants. Thus, it cannot be said to be a service matter as defined under Section 3(q) and Section 14 and **19** of the Administrative Tribunals Act. The respondents have categorically stated that they have issued guidelines regarding enforcement of their policy decision Ann.A1 from time to time. Thus, the assertion made by the applicants that the respondents may be directed to issue further guidelines to implement the policy decision (Ann.A1) simply in order to make this case within the purview of this Tribunal, when decidedly the said claim does not fall within the jurisdiction of this Tribunal, is without substance.

8. Thus, I am of the view that this Tribunal has no jurisdiction to entertain this OA and remedy, if any, lies elsewhere. Accordingly, the OA is dismissed with no order as to costs.



(M.L.CHAUHAN)

Member (Judicial)

R/