

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

ORGINAL APPLICATION NO.203/00341/2015

Jabalpur, this Wednesday, the 11th day of April, 2018

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

1. All India Loco Running Staff Association (S.E.C.Rlys) through its General Secretary V.K.Tiwari, AILRSA Office, Vaishali Residency, Shankar Nagar, Bilaspur (CG) PIN 495004
2. A.K.Singh, S/o Shri R.P.Singh, Aged about 53 years, R/o H.No.13-Sahara Vihar, Kasimpara, Torwa (PO&PS) Bilaspur (CG) PIN 495004
3. V.K.Tiwari S/o Shri R.N.Tiwari, Aged about 41 years, R/o 206, Rail Vihar Colony, Main Road, Devrikhurd, Railway R.S., Torwa (PS), Bilaspur Dist (CG) PIN 495004
4. S.P.Day, S/o Late P.R.Dey, Aged about 43 years, R/o Mamta Villa, Keshaw Mira Mills Road, Hemunagar, Railway R.S., Torwa (PS), Bilaspur Dist (CG) PIN 495004
5. B.Ramesh Kumar, S/o Shri B.H.S.Murthy, Aged about 52 years, R/o Behind Allu Godam, Vijaynagar, Devrikhurd, Railway R.S., Thorwa (PS), Bilaspur Dist (CG) PIN 495004
6. S.Oraon, S/o late K.Oraon, Aged about 38 years, R/o B-302, Vaishali Residency, Shankarnagar, Hemunagar, Rly. R.S., Torwa (PS), Bilaspur Dist (CG) PIN 495004
7. P.V.J.Rao, S/o Shri P.Narayan Rao, Aged about 56 years, R/o Behind Swamy Medical Stores, Devrikhurd, Rly. R.S., Torwa (PS), Bilaspur Dist (CG) PIN 495004- **APPLICANTS**
(By Advocate – Shri K.R.Nair)

Versus

1. Union of India through the General Manager, SEC Railway, Bilaspur, Bilaspur Dist, CG State, PIN-495004

2. Chief Personnel Officer, SEC Railway, Headquarters Officer, Personnel Department, Bilaspur Dist, CG State, PIN-495004

3. Senior Divisional Electrical Engineer (OP) SEC Railway, Bilaspur, Bilaspur Dist, CG State, PIN-495004 **- RESPONDENTS**
(By Advocate – Shri R.N.Pusty)

(Date of reserving the order:08.11.2017)

ORDER

By Navin Tandon, AM-

The applicants are aggrieved by refusal of the respondents to grant pay fixation and its benefits, for officiating in higher post of LPP for the period exceeding 30 days.

2. This is the second round of litigation. Earlier the applicants had approached this Tribunal by way of filing Original Application No. 57 of 2013, which was disposed of vide order dated 17.01.2013 (Annexure A-11), at the admission stage itself, with a direction to the respondents to consider and decide the representation submitted by the applicant No.1 in accordance with the rules contained in the IREM(I). In compliance with the said directions, the respondent No.3 has duly considered the representation, and passed reasoned order dated 22.04.2013 (Annexure A-1) regretting the claim of the applicants.

3. In this Original Application, the applicants have claimed for the following reliefs:

“8(a) This Hon’ble Tribunal be pleased to accept this application.

(b) This Hon'ble Tribunal be pleased to direct the Respondents to consider and grant within a time frame pay fixation and its benefits to the applicants as per the extant rules for officiating in the higher post of LPP for the period exceeding 30 days”

4. The applicants have submitted that they all were working, during the relevant period, in substantive post of Loco Pilot Goods and were directed to officiate in the higher post of Loco Pilot Passenger/Mail Trains, by their superior authorities. The relevant rules provide for payment of officiating allowance to running staff and to fix their pay. The applicants have stated that they have continuously worked for period exceeding 30 days in officiating capacity on higher posts, but the respondents have denied their entitlement. The applicants have tabulated their period of officiating on higher post in para 4.2 of the Original Application, which reads as under:

Sl. No.	Name	Officiating From	Period from which payment due	Higher post
1.	A.K.Singh	4/9/2010	From Nov,2010 to 10/3/2015	LPP
2.	V.K.Tiwari	13/11/2010	From 23/3/2010 10/12/2014	LPP
3.	S.P.Dey	13/11/2010	From 13/11/2010 6/12/2013	LPP
4.	B.Ramesh Kumar	13/11/2010	From Sept 08 to 14/4/2011	LPP
5.	S Oraon	August 2008	From Aug 08 to Feb 2011	LPM
6.	P.V.J.Rao	4/4/2008	From April 2008 to April,2011	LPP

4.1 The applicants have submitted that they were promoted to the post of LPP and their date of promotion is the next date of the last date of their officiating on the higher post of LPP as shown in the above table. The applicants have also filed a copy of computerized crew details (Annexure A-3) showing that the applicants 2 to 4 were officiating against higher post of LPP.

4.2 The applicants have further submitted that the Sr.DEE(OP) vide his letter dated 28.11.2011 recommended that the applicants be paid for the work done. However, in spite of the said recommendation, no officiating allowance was paid to the applicants. Therefore, the applicant No.1 had made a representation on 29.05.2012 to the Divisional Railway Manager requesting for making payment to all the running staff officiating against higher post as per rules. Since their representation was not decided, they approached this Tribunal by filing Original Application No.57 of 2013, which was disposed of vide order dated 17.1.2013 (Annexure A-11). The respondents vide impugned order dated 22.04.2013 (Annexure A-1) have rejected the claim of the applicants. The applicant No.2 had also given a separate representation to which the respondents have replied on 28.04.2014, which is also impugned in this Original Application.

4.3 During the course of arguments the learned counsel for the applicant placed reliance on the decision of Hon'ble High Court of

Judicature at Bombay, Nagpur Bench, Nagpur in Writ Petition No.132 of 2000 (**Union of India & ors. Vs. Vinod & others**)

5. The respondents have submitted that in compliance with the directions of this Tribunal, the applicants had been replied by the Senior Divisional Electrical Engineer (OP) with reasoned speaking order dated 22.04.2013, which is being challenged by the applicants after lapse of two years, and, therefore, this Original Application is time barred as per Section 21 of the Administrative Tribunals Act, 1985.

5.1 The respondents have stated that for officiating to the post of LPP, senior most LPG are to be considered but in this case all the seven applicants were junior and, therefore, such reliefs can not be given to them by passing the seniors.

5.2 The respondents have further submitted that as per railway records no initial approval for officiating arrangements was given by the competent authority in respect of the applicants. The note dated 28.11.2011 of Sr.DEE(OP) recommending 15% extra mileage for working in higher grade does not relate specially with applicants, but it was a general note. Therefore, the applicants are not entitled for pay fixation in the pay scale of LPP for the claimed period.

6. Heard the learned counsel for the parties and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. Para 913 of Indian Railway Establishment Manual Vol.I deals with officiating allowances and the same reads thus:

“913. Officiating Allowance

(i) The officiating allowance in respect of running staff officiating in running post shall be regulated as under:

(a) When running staff are put to officiate in a "running post" for 30 days or less, they shall be entitled to pay as admissible in the lower grade plus Running Allowance at the rates and on the condition applicable to the higher grade in which they officiate enhanced by 15% (except in the case of Second Firemen put to officiate as First Firemen and Engine Cleaners put to officiate as Second Firemen for whom the enhancement will be by 30% of the kilometrage actually performed for every such higher grade.

(b) **When running staff are put to officiate in a "running post" for more than 30 days, their pay in the higher post shall be fixed under the normal rules.**

(ii) (a) When running staff are put to officiate in a stationary post for more than 30 days, their pay will be fixed on the basis of their pay in the lower post plus 30% thereof representing the pay element of the Running Allowance.

(b) The fixation of pay of running staff put to officiate in a stationary post for a period of 30 days or less, shall continue to be regulated in terms of para 911 (ii) (a) of Indian Railway Establishment Manual.

(iii) *In cases where the officiating arrangement is initially approved for periods exceeding 30 days the normal rules of fixation of pay will apply; where the period is initially for 30 days, the enhanced kilometrage allowance drawn upto 30 days should be allowed to stand but payments for periods beyond 30 days should be in accordance with the rules for normal-fixation of pay on promotion”.*

(emphasis supplied by us)

8. We find that the above provisions of IREM clearly stipulates that in cases where the officiating arrangement is initially approved for periods exceeding 30 days, the normal rules of fixation of pay will apply. However, in the instant case we find that in none of the cases of the applicants initial approval was ever given by the competent authority for the officiating arrangement of the applicants on the higher post of LPP, as required under Para 913 of the IREM Vol.I, for the purpose of fixation of pay on higher post.

9. We may also reproduce the relevant extract of the order dated 22.04.2013 (Annexure A-1) passed by the respondents in compliance to the earlier direction of this Tribunal given in Original Application No.57/2013 as under:

“In order to comply the judgment passed by Hon’ble Tribunal the representation dated 29.05.2012 (annexure A/5 of OA) submitted on behalf of your organization have thoroughly been verified when it is found that in para I of the said letter have indicated the problems facing by the Loco running staff of Bilaspur Division during their day to day working and claimed to redress the same properly.

It is also stated in para II of the said letter dated IREM Vol.I para 913 clearly have provision that, if running staff officiated on higher grade up to 30 days than 15% enhanced mileage will be paid but if officiating for more than 30 days than pay will be fixed on higher grade irrespective of junior/senior performed the duty but in Bilaspur neither of both is being paid from the two years withhold any reason.

In this connection it is stated that to redress the 1st issue, the same was processed and brought to the kind notice of competent authority and the same will be decided on due process as well as on prescribed rule and procedure within the short time. However, in regard to the 2nd issue it is stated that as per the extent rule officiating in higher grade can only be given as per seniority and services of the employees can be used in higher grade only after issuing the proper office order, as such your claim was verified from the available office record in the Personnel Branch of the respondents office, as personnel branch is the only authority and empowered to issue such office orders, but it is seen that, no such office orders have so far been issued. Apart from it is also seen while making officiating arrangement junior staff were engaged but as per rule senior staff should have been engaged. It such could happened than administrative would have been given higher grade fixation. Now, it is not possible under extent rules to give higher grade fixation to junior staff, it will also create lesser pay of senior staff and seniority dispute.

In view of the above it is seen that the claims preferred by the applicant cannot be entertained hence it is regretted. Accordingly the judgment dated 17.01.2013 passed by Hon'ble Tribunal is hereby complied”.

10. We find that while regretting the claim of the applicants, by the aforesaid order, the competent authority of the respondents has specifically stated that benefits of officiating in higher grade can only be given as per seniority and services of the employees can be used in higher grade only after issuing the proper office order. It has been further stated in the said order that the applicants' claim was verified from the available office record in the Personnel Branch of the respondents' office, who is the only authority and empowered to issue such office orders, but it was found that, no such office orders had so far been issued.

11. Thus, considering the matter from all aspects since the applicants have failed to show that they had officiated on higher post with the approval of the competent authority, in terms of the provisions of Para 913 of IREM Vol.I, they are not entitled to the relief sought for in this Original Application.

12. The reliance has been placed by the learned counsel for the applicants on the decision in the matters of **Vinod** (supra). In that case, the railway employees were not granted officiating allowance even though they were working in the higher posts. The applicants in the said case were working on stationary posts. Whereas in the instant case the applicants are belonging to running cadre and, therefore, Para 913 of the IREM Vol.I is applicable to them, which was not the case of the employees in Vinod's case (supra). It is not the case of the applicants herein that higher running allowance has not been paid to them as per Para 913 of IREM Vol.I. In the instant case the applicants are mainly asking for fixation in the higher grade. Thus, the reliance placed by the learned counsel for the applicants on the decision in the matters of **Vinod** (supra) is misplaced.

13. We also find force in the contention of the respondents that the present Original Application is barred by limitation. The impugned order

was passed on 17.01.2013 whereas the present Original Application has been filed on 23.04.2015 i.e. much beyond the period of limitation of one year.

14. Accordingly, the Original Application is dismissed on merits as well as being barred by limitation. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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