

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2700/2013

Reserved on : 19.02.2019

Pronounced on : 26.02.2019

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. ARDHANA JOHRI, MEMBER (A)**

1. Indian Railway Loco Runningmen Organisation
Through Working President
Mr. Sanjay Pandhi
Muniswamappa Building
Railway Station circle
Yeshwanthpur
Bangalore-22.
2. Mr. P.S. Kochu Mohammed
S/o Sh. V.M. Sayed Mohammed
R/o No. 43, Second Cross,
Okalipuram 1st Stage
Bangaluru
Karnatka-560021.Applicants

(By Advocate: Ms. Pratiksha Sharma with Shri Ankit Acharya)

Versus

1. Ministry of Railway
Through Secretary
Rail Bhawan, Raisina Road,
New Delhi-110001.
2. Railway Board
Through Chairman
Rail Bhawan, Raisina Road,
New Delhi-110001.
3. Ministry of Labour and Employment
Through Secretary
Shram Shakti Bhawan
Rafi Marg, New Delhi-110001.
4. Chief Labour Commissioner (Central)
Shram Shakti Bhawan,
Rafi Marg, New Delhi-110001.

5. High Power Committee
 Through Chairman
 Rail Bhavan, Raisina Road,
 New Delhi-110001. ...Respondents

(By Advocate: Dr. Indra Pratap Singh for R-1, R-2 & R-5
 Shri D.S. Mahendru for R-3 & R-4)

ORDER

By Shri V. Ajay Kumar, Member (J)

The applicants are two in number, and the 1st applicant is the Indian Railway Loco Runningmen Organisation represented by its working President, Shri Sanjay Pandhi, and the 2nd applicant is an individual Loco Pilot (Passenger) in the respondent-Railways and both jointly filed the OA seeking the following reliefs:-

“(a) Issue writ in the nature of Certiorari and any other writ of like nature quashing the Railway Board Letter No.ERB-1/2011/18 dated 25.05.2011 constituting the illegal High Power Committee.

(b) Issue writ in the nature of Quo Warranto directing respondent No.5 committee to disclose the authority and jurisdiction to hold the office and on enquiry direct members of respondent no.5 to vacate the office or remove the members from the office and direct not to usurp the office.

(c) Issue writ in the nature of Prohibition restraining respondents no.1, 2 & 5 from proceeding in the matter and pass any order in the matter and to set aside and cancel the entire proceeding with respect to the committee.

(d) Issue a writ in the nature of mandamus directing respondent No.4 for formulate a Judicial High Power Committee to determine hours of work of loco running men.

(e) Pass any other or further order, which this Hon’ble Tribunal may deem fit in the interest of justice”.

2. On 13.12.2016, the learned counsel appearing for the applicants, after arguing for sometime, sought liberty to file a

Miscellaneous Application for amendment of the OA, which was allowed. However, no MA seeking amendment of any part of the OA was filed till date. When the OA is taken up for hearing, Ms. Pratiksha Sharma, the learned counsel appearing for the applicants submitted that the applicants are not pressing the reliefs at paras 8(a) to (c) and the only surviving relief is 8 (d) and accordingly, advanced arguments limited to the said relief only.

3. Heard Ms. Pratiksha Sharma with Shri Ankit Acharya, the learned counsel for the applicants and Dr. Indra Pratap Singh, the learned counsel for respondents No.1, 2 and 5 and Shri D.S. Mahendru, the learned counsel for respondents No.3 and 4 and perused the pleadings on record.

4. The short issue raised by the learned counsel for the applicants in this OA is that Annexure A-1 order dated 25.05.2011 was issued by the Respondent-Ministry of Railways (Railway Board) whereunder it was decided to constitute a High Power Committee to review the duty hours of running and other safety categories of staff on Railways under the Chairmanship of Shri D.P. Tripathi, Ex-Secretary, Ministry of Food Processing Industries along with certain other members and that the Ministry of Railways (Railway Board) has no power, authority or jurisdiction to do so and hence a direction may be issued to the 4th respondent-Chief Labour Commissioner (Central), who is the competent authority to

constitute a High Power Committee to review the duty hours of running and other safety categories of Railways.

5. The learned counsel for the applicants submits that as per law the Ministry of Labour and its authorities are only empowered to fix the duty hours of running staff of Railways, and constituting a High Power Committee by Railways, even for review of the duty hours, is bad.

6. On the other hand, Dr. Indra Pratap Singh and Shri D.S. Mahendru, the learned counsel appearing for the respondents would submit that the OA itself is liable to be dismissed as not maintainable and become infructuous and that this Tribunal has no jurisdiction to entertain the OA.

7. The learned counsels further submitted that the 2nd applicant, who is an individual Loco Pilot (Passenger) has not claimed any individual relief to him, hence the OA cannot be treated to have filed for the redressal of the rights of any individual employee of the Railways.

8. They also submit that the Railways have already determined the duty hours of running and other safety category of railway staff and in exercise of the powers conferred under Section 136 of the Railways Act, 1989, the Ministry of Railways framed the Railway Servants (Hours of Work & Period of Rest) Rules, 2005 and notified the same after obtaining approval of Ministry of Labour &

Employment and vetting by Ministry of Law and Justice. The applicants having not challenged the same, now cannot challenge the subsequent action of the Railways in constituting a High Power Committee to review the duty hours of running and other safety category of railway staff. Further, the said High Power Committee was set up with the mutual consent of both the recognized federations of the Railways and the 1st applicant organisation cannot have any objection to the action of the respondents, which is being done in the larger interest of the staff of the railways. The learned counsel further submits that once the 3rd respondent- Ministry of Labour and Employment and the Law Ministry approved actions taken by the railways, the same would be sufficient compliance of the relevant statutory provisions and hence the OA is liable to be dismissed.

9. The learned counsel further submit that the Ministry of Labour and Employment is entrusted with the function of an Appellate Authority so far as working hours of Railway employees are concerned, and the applicants, if they are aggrieved with fixing of any duty hours, they have an alternative remedy of approaching to the 4th respondent-Chief Labour Commissioner (Central), by filing an appropriate appeal and the applicants instead of availing the said statutory remedy, filed the instant OA and accordingly prays for dismissal of the OA.

10. We find force in the submission made by the learned counsel for the respondents. As rightly submitted by the learned counsel, that even according to the applicants, the 4th respondent-Chief Labour Commissioner (Central) is the Appellate Authority to determine any dispute with regard to the fixing of duty hours of the running and other Safety Staff Category of Railway Staff, and that they have filed the instant OA instead of availing the said affective statutory remedy.

11. Further, as rightly pointed out by the learned counsel for the respondents that the 2nd applicant failed to show any individual grievance to maintain the OA before this Tribunal. Even otherwise, the impugned Annexure A-1 order dated 25.05.2011 is only an internal action of the respondent-Railways and the same would attain finality only when the respondent-Railways reviewed and refixed the working hours by issuing appropriate orders/rules.

12. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. However, this order shall not preclude the applicants from approaching an appropriate authority for redressal of their grievances, if they are so advised, in accordance with law. Further, this order shall not preclude the applicants to challenge any final

orders, if passed, by the respondents, in continuance of Annexure A-1, if so advised, in accordance with law. No costs.

(ARADHANA JOHRI)
Member (A)

(V. AJAY KUMAR)
Member (J)

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