

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

1. O.A.No.1885/2003
2. O.A.No.1886/2003
3. O.A.No.1887/2003
4. O.A.No.1888/2003
5. O.A.No.1889/2003
6. O.A.No.1890/2003
7. O.A.No.1891/2003
8. O.A.No.1892/2003

Thursday, this the 29th day of July, 2004

HON'BLE SHRI V.K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. OA-1892/2003

Narinder Singh  
s/o Shri Mangal Singh  
aged 64 years  
Mail Guard (Retired)  
109, New Rajguru Nagar, Ludiana

..Applicant

2. OA-1885/2003

Joginder Singh  
s/o Shri Dalip Singh  
Aged 64 years  
Guard (Retired)  
r/o House No.130/J/Bhai Randhir Singh Nagar  
Ludhiana (Punjab)

..Applicant

3. OA-1886/2003

Tara Chand  
s/o Shri Parbhati  
aged 64 years  
Driver (Passenger) Retired  
r/o Baghpat Gate Mata Ka Bagh  
Meerut City.

..Applicant

4. OA-1887/2003

Brij Mohan  
s/o Shri Ram  
aged 64 years  
Guard (retired)  
House No.1762, Phase-V, Mohali

..Applicant

5. OA-1888/2003

Joginder Singh  
s/o Shri Gurdial Singh  
aged 64 years  
Driver (Retired)  
Janakpuri, Salem Tabari, Ludhiana

..Applicant

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6. OA-1889/2003

Sarwan Singh  
s/o Shri Bawa Singh  
aged 64 years  
Driver (Retired)  
Habbowal Kalan, Ludhiana

..Applicant

7. OA-1890/2003

Rattan Singh  
s/o Shri Gian Singh  
aged 64 years  
Guard (Retired)  
Guru Nanak Pura East,  
Jalandhar City

..Applicant

8. OA-1891/2003

Krishan Chand  
s/o Shri Ram Lal  
aged 64 years  
Driver (Retired)  
Joshi Nagar, Habbowal Kalan  
Ludhiana

..Applicant

(By Advocate: Shri B.S.Mainee in all OAs)

Versus

1. Union of India through the Chairman  
Railway Board, Ministry of Railways,  
Rail Bhawan, New Delhi
2. General Manager, Northern Railway,  
Baroda House, New Delhi
3. Divisional Railway Manager,  
Northern Railway  
Ferozepur Division, Ferozepur Cantt.
4. Senior Divisional Accounts Officer  
Northern Railway, Ferozepur

..Respondents  
in all OAs

(By Advocates: S/Shri H.K.Gangwani and *R.L. Dhawan*)

O R D E R (ORAL)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

These cases are being disposed of by this common order as the same issues and law are involved in these matters. For the sake of convenience, facts and grievance have been culled out from OA No.1892/PB/2003 : Narinder Singh v. Union of India & Ors.

2. Applicant belongs to running staff category of Railway employees. He superannuated as Guard w.e.f. 29.2.1996. He is governed by the Railway Services (Pension) Rules, 1993. The grant of running allowance is governed by Chapter IX of the Indian Railway Establishment Manual, Volume-I. Applicant's case is that the basic pay in the prescribed scale (effective from 1.1.1996) has to be fixed at the stage next above in the revised scale of pay by taking into account the following components of pay :

- (a) existing basic pay;
- (b) actual D.A. drawn as on 1.1.1996 (at index level 1510);
- (c) first instalment of Interim Relief;
- (d) second instalment of Interim Relief; and
- (e) add 40% of basic pay.

3. Applicant retired after 1.1.1996. According to the applicant for such Railway employees who retire during 1.1.1996 to 30.9.1996, 55% of basic pay as element of running allowance has to be taken into account for determining the emoluments for computing pension. As such, 50% of the sum total of all elements, i.e., basic pay, DA, first and second IRs and 40% of basic pay have to be taken for all existing employees as on 1.1.1996 and those retiring subsequently during the aforesaid period. Applicant has sought the following reliefs :

"(i) Respondents orders dated 27.04.2001 (A-1) and letter dated 30.7.2001 (A-2) and letter dated 15.10.2001 (A-3) be quashed and set aside being illegal, unjust, arbitrary and discriminatory violative of Articles 14 & 16 of the Constitution of India.

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(ii) It may kindly be declared that while working out the emoluments for the pre-96 period for determining the pensionary benefits/pay element of running allowance @ 55% should be added on the total of all the elements i.e. basic pay, DA, IRs and 40% fitment benefit as has been done in the case of running staff for fixation of pay w.e.f. 01.01.96 onwards.

(iii) Respondents be directed to compute the emoluments for pre-96 period for determination of pensionary benefits of the applicant in terms of orders dated 29.10.99 and the pay element of 55% be added with reference to all elements of basic pay, DA, IRs and 40% fitment benefit and to fix the pensionary benefits of the applicant w.e.f. 01.03.96 with all consequential benefits of arrears.

(iv) This Hon'ble Tribunal may pass any other order or direction as it may deem just and proper in the circumstances of the case."

4. The learned counsel of the applicant has filed a copy of Railway Board's order dated 26.2.2004 regarding implementation of government's decision on the recommendations of the Fifth Central Pay Commission - revision relating to pension/commutation of pension - JCM/DC Item No.26/2001. It is reproduced below :

"Subject : Implementation of Government's decision on the recommendations of the Vth Central Pay Commission - Revision relating to pension/commutation of pension - JCM/DC Item No.26/2001.

.....

Reference Board's letter of even number dated 30-7-2001 on the above subject.

2. The issue has been reviewed in consultation with the Staff side in the JCM/DC Meeting held on 14th & 15th October 2003. Pursuant to the discussions, it has been decided by the Board that Para 2(a) of the letter dated 30-7-2001 *ibid* may be substituted with the following :

(a) For the period during which pay was drawn in the pre-revised pay scales by the running staff, the total emoluments for the number of months for which pay

was drawn in the pre-revised pay scales shall be calculated after taking into account the following :

- (i) Basic Pay (including increments, if any drawn during the intervening period).
- (ii) Dearness allowance upto CPI 1510 i.e. @ 148%, 111% and 96% of the Basic Pay + 30% of the Basic Pay, as the case may be.
- (iii) The first and second instalments of Interim Relief appropriate to the Basic Pay drawn during the relevant period, the second instalment of interim relief being calculated on Basic Pay + 30% of the Basic Pay.
- (iv) Notional increase of the Basic Pay by applying the Fitment Benefit of 40% on the Basic Pay in the pre-revised scale.

Provided that whenever the emoluments calculated as at (i) to (iv) above exceed the maximum of the revised scale of pay introduced w.e.f. 1-1-1996, the same should be restricted to the maximum of the said revised scale of pay.

- (v) 55% of the sum of (i), (ii), (iii) & (iv) above.

3. Accordingly, Annexure-I to the letter dated 30-7-2001 *ibid* may be substituted with the Annexure attached to this letter. Other terms and conditions contained in Board's letter No.F(E)III/97/PN1/22 dated 29-10-1999 and 21.8.2003 *ibid* remain unchanged.

4. This issues with concurrence of the Finance Directorate of the Ministry of Railways."

5. The learned counsel stated that in respect of the applicants who have retired during 1.1.1996 to 30.9.1996, their total emoluments relating to the pay drawn in pre-revised pay scales shall be calculated after taking into account 55% of the sum of (i) to (iv) as stated in the above circular. The learned counsel of the respondents do not have any objection to implementation

of the Railway Board's circular dated 26.2.2004 in the matter.

6. In result, these OAs are allowed. Impugned orders are quashed and set aside. Respondents are directed to compute the emoluments for pre-1996 period for determination of pensionary benefits of the applicants in terms of circular dated 26.2.2004 adding 55% of the sum of basic pay, DA, IRs and 40% fitment benefit and to fix the pensionary benefits of the applicants after the date of superannuation, with all consequential benefits. Respondents are also directed to pay a simple interest of 9% per annum for the delayed payments of arrears.

( Shanker Raju )  
Member (J)

( V. K. Majotra )  
Vice Chairman (A)

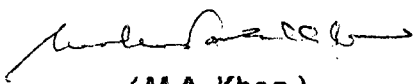
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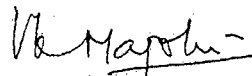
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SB (J-1)

It has been pointed at the Bar that O.A. Nos.1885/2003, 1886/2003, 1887/2003, 1888/2003, 1889/2003, 1890/2003, 1891/2003 and 1892/2003 have already been decided by an order of this Tribunal on 29.7.2004. Matters which have already been decided may well not be re-listed.



(M.A. Khan)  
Vice Chairman(J)



(V.K. Majotra)  
Vice Chairman(A)



(V.S. Aggarwal)  
Chairman

/dkm/