

(2024) 03 CAT CK 0027

In the Central Administrative Tribunal

Case No : Original Application No. 330, 00348 Of 2016

Bhagwan Das

APPELLANT

Vs

Union Of India Through General Manager, North Eastern
Railway, Gorakhpur & Others

RESPONDENT

Date of Decision : 14-03-2024

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2024) 03 CAT CK 0027

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : Vinod Kumar, Rachna Dubey

Final Decision : Allowed

Judgement

Om Prakash VII, Member (J)

1. The present O.A has been filed by the applicant under section 19 of the Administrative Tribunal Act, 1985 seeking following reliefs:-

“(i) to issue an order or direction in the suitable nature directing the respondents to consider the claim of the applicant for adding the benefits of 55% elements in retiral benefits/pension at the rate of last 10 months + 55% of this pay/2 which are being paid to the other similar situated loco Inspectors, along with market rate of interest since the date of his retirement.

(ii) Issue any other suitable writ, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(iii) Award the cost of this original application to the applicant”.

2. The brief facts of the case is that applicant was retired from Railway as Senior Loco Inspector. Applicant of this O.A. seeking the benefit of the decision of the Tribunal in Smt. Chandra Wati Vs. Union of India (O.A.No. 347/2016) decided on 21.4.2023 with refixation of pensionary benefits and retiral dues by adding an

element of 55% of basic pay as granted to Loco Running staff from the date of retirement.

3. Per contra, learned counsel for the respondents filed counter reply, stating therein that adding 55% pay element for computing the retiral benefit is not feasible as the duty of the Loco Inspector were stationary on the contrary the post of duties of Loco Pilot are of running in nature as they are working and moving of the trains and as such the claim of the applicant does not cover under the instructions. It is further stated that Hon'ble Supreme Court in Special Leave to Appeal No.4758 of 2016 (UOI and others Vs. Kishan Lal Sharma) which has converted into Civil Appeal No. 3110 of 2016 has been pleased to pass an order dated 18.3.2016 and granting the leave and stayed the operation of the impugned judgment arising out of order dated 9.10.2015 in Civil Misc. Writ Petition No. 2937 of 2007 and review Petition No. 377 of 2015 passed by the Hon'ble High Court of Delhi. Civil Appeal NO. (s) 3110/2016 preferred by the UOI in the case of UOI Vs. Kishan Lal Sharma and others is dismissed by the Hon'ble Apex Court on 22.2.2023

4. I have heard Shri Vinod Kumar, learned counsel for the applicant and Ms. Rachna Dubey learned counsel for the respondents and perused the records.

5. Submissions of the learned counsel for the applicant is that applicant was working as Senior Loco Inspector and his service was always utilized in operative/ running side. It is further argued that as per relevant rules of the department, the employees who are working operative/running side shall be entitled to receive running allowance upto the 55% after their superannuation. It is further contended that judgment passed by the coordinate Bench of this Tribunal in identical matter and confirmed by the Hon'ble High Court as well as by the Apex Court has been declared in rem, hence applicant is entitled to receive the same benefits being given to the similarly situated employee of the respondents.

6. Learned counsel for the respondents denied the contention of the learned counsel for respondents and argued that applicant was working as Loco Inspector and he is not covered under the running staff. On the contrary duties of Loco Pilot are of running in nature as they are working and moving of the trains and as such the claim of the applicant does not cover under the instructions issued by the railway.

7. I have considered the rival submissions of the learned counsel for the parties and have gone through the entire record.

8. From perusal of record, it is admitted that applicant retired from the Railway as Senior Loco Inspector and seeking the same benefits which were provided to the similarly situated employee after superannuation. In the case of K.L. Mehndiratta and others Vs. UOI and others decided on 14.2.2008 (CAT, Principal Bench), in O.A. No.1022/2011 (Shri Niwas Sharma Vs. General Manager, North Central Railway, Allahabad) decided on 25th April, 2013 by CAT, Allahabad

Bench, applicants were also working as Loco Inspector and coordinate benches of this Tribunal has allowed the O.A. and directed the respondents to extend the benefit of judgment referred to in the body of the order, including Krishan Lal Sharma and as a result thereof an element of 55% in the basic pay in running allowance be accorded to them, which would enhance pension and other retiral dues which shall be paid to the applicants, from the date of retirement within a period of three months from the date of receipt of a copy of the order. Civil Appeal NO. (s) 3110/2016 preferred by the UOI in the case of UOI Vs. Kishan Lal Sharma and others was dismissed by the Hon'ble Apex Court on 22.2.2023. Hence the case of Kishan Lal Sharma has attained finality.

9. Since the similarly situated employees have been granted the benefit of adding the 55% elements in retiral benefits/ pension at the rate of last 10 months + 55% of the pay and this Tribunal in so many cases allowed the O.A. which has also been affirmed by the Hon'ble High Court as well as Apex Court, I have no occasion to differ with the view taken by the benches in similar case.

10. Accordingly, O.A. is allowed. Respondents are directed to extend the benefit of 55% elements in retiral benefits/pension in the running allowance which would enhance pension and other retiral dues, which shall be paid to the applicant from the date of retirement of the applicant. This exercise shall be carried out within a period of three months from the date of receipt of certified copy of this order. There shall be no order as to costs. All MAs pending in this O.A. also stand disposed off.