

(2024) 03 CAT CK 0010

In the Central Administrative Tribunal

Case No : Original Application No. 466 Of 2022

Prashant Kumar, S/o Late Ramadhar Verma

APPELLANT

Vs

Union Of India, Through Chairman, Railway Board, New
Delhi. & Ors.

RESPONDENT

Date of Decision : 07-03-2024

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2024) 03 CAT CK 0010

Hon'ble Judges : Dr. Sanjiv Kumar, Member (A)

Bench : Single Bench

Advocate : Rajvendra Singh, Chakrapani Vatsyayan

Final Decision : Allowed

Judgement

Dr. Sanjiv Kumar, Member (A)

1. The instant OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking relief to direct the respondent No. 3 to provide arrears of Rs. 2,57,184/- of allowances in lieu of Kilometerage (ALK) as per 160 Km/day from 03.08.2017 to 02.08.2018 and also arrears of Rs. 31,620/- as per the 1% of the basic payment from 03.08.2018 to 02.12.2018 alongwith 12% interest of the aforesaid amount as it is provided to other similarly situated Goods Guard / Good Train Managers, and give any other relied deemed fit and to award cost.

2. The fact of the applicant is that he was selected as Goods Guard/Goods Train Manager through Railway Recruitment Board, Gorakhpur and after training he joined his duties on 03.08.2016 at Krishnashila under Station Superintendent at Dhanbad Division. Thereafter, he was directed to join the work in Freight Operation Information System (FOIS) at Chopan Control vide MSG No. CC/87/07/2017 dated 29.07.2017 by the Divisional Traffic Manager (DTM) Chopan in pursuance of which he has joined on 03.08.2017 and worked there in Chopan upto 02.08.2018 which is outside his headquarters. As per prevailing rule

he was entitled to get allowance in lieu of kilometerage (ALK) of 160 Km/day from 03.08.2017 to 02.08.2018. Thereafter, the applicant has been transferred from Krishnashila (KRSL) to Chopan (CPU) vide office order dated 02.08.2018 and he joined at CPU on 03.08.2018 and he discharged his duties at Chopan since 03.08.2018 to 02.04.2019 as local person on a stationary duty there for which he is entitled to get ALK of 1% of basic pay as it is provided to other similarly situated staff, but he was not provided the same benefit and only for the last four months i.e. from December 2018 to April 2019 he was provided the said benefit.

3. He ventilated his grievances before various authorities and Senior Divisional Operation Manager on 01.09.2017 and which was duly forwarded to the Assistant Traffic Manager Chopan. The Divisional Traffic Manager CPU himself has recommended his case to provide the aforesaid ALK benefit of 1% of the basic pay to the applicant vide letter dated 08.11.2017. And the Chief Controller (CHU)/ CNL/CPU vide letter dated 12.12.2017 recommended to provide ALK benefit to the applicant as it was provided to other 6 Goods Guard/ Goods Train Managers in the similar category. But inspite of that request the benefit was not given to him and he gave several representations and reminded on 20.03.2018 and put it on Suvidha Dhanbad being grievance No. 840180320 and filed a complaint at online portal on 13.04.2018 bearing No. 2968180413 but all went in vain. And subsequently on mutual transfer he came to Prayagraj on 03.04.2019 where he joined on 04.04.2019 and efficiently discharging his duties and as he is entitled to the said benefit and it is not granted to him till now, hence, the same should be granted to him and his OA be allowed and relief should be granted.

4. On notice the respondents have filed their counter affidavit wherein they agree with the basic facts of the applicant that he was spared from Krishnashila on 29.07.2017 and directed to report to Chief Controller, Chopan in compliance to Control message No. CC/87/07/2017 dated 29.07.2017 due to shortage / exigency of manpower at Control Chopan. Accordingly, the applicant, the then, Goods Guard, Krishnashila reported to Chief Controller, Chopan on 03.08.2017 for performing stationary or non-running duty. Thereafter, he was transferred from Krishnashila to Chopan on his own request basis on 02.08.2018 vide Office Order No. 2048/06/Posting of 2018 dated 25.06.2018. So clearly the applicant worked out side of his headquarter for the period from 03.08.2017 to 02.08.2018 only for which he claimed Rs. 2,57,184/- as allowance in lieu of Kilometrage of 16 Km/day. He was regularly transferred to Chopan on 02.08.2018 so between 03.08.2018 to 02.04.2019 he worked there as a local employee. Then due to his request on 03.04.2019 on inter railway mutual transfer he came to Prayagraj. The respondents do not contest any of the facts of the applicant, their only say is that the applicant performed stationary duty at CPU Control as such he is not entitled for allowance in lieu of kilometerage. Hence, his OA is liable to be dismissed and no relief can be granted.

5. The applicant has filed rejoinder affidavit in which he has reiterated his facts

and given certain circulars and discussed the relevant rules.

6. The case came up for final hearing on 22.02.2024. Shri Rajvendra Singh, learned counsel for the applicants and Shri Chakrapani Vatsyayan, learned counsel for the respondents were present and heard. I have gone through the records carefully and considered the rival contentions.

7. From the record it is evident that the fact is not denied that the applicant was a Goods Guard which is a running staff. The second fact is not denied that he was originally working at Krishnashila and from there he was sent on temporary duty on a stationary job between 03.08.2017 to 02.08.2018 and on 03.08.2018 he was regularly transferred to a new place at CPU, Chopan and he worked there as local on stationary duty between 03.08.2018 to 02.04.2019. With these facts the first issue before me to be decided is, "Whether the applicant being running staff sent on stationary duty outstation from his place of post at Krishnashila to Chopan between 03.08.2017 to 02.04.2018 was eligible for kilometerage allowance at 160 Km/day outside his headquarter, as per rules?" As this is asserted by the applicant and denied by the respondents. And the second issue between the parties was, "Between 03.08.2018 02.04.2019 when the applicant was at Chopan as regularly posted local person at Chopan being a running staff deployed for temporary duty, was the applicant eligible for 1% of basic pay?" Which is asserted by the applicant and denied by the respondents.

8. The applicant has filed rules in his rejoinder, which is not further contested by the respondents. Wherein at Annexure 1 he has filed chapter IX of their Railway Rules "Running allowance for staff performing running duties etc." and kilometerage allowance etc. Item 907 "Allowance in lieu of kilometerage (ALK) reads following:-

"907. Allowance in lieu of Kilometrage (ALK)

When running staff are engaged in or employed on non-running duties as specified in Rule 3 (ii) above, they shall be entitled to the payment of an allowance in lieu of Kilometrage as indicated below for every calendar day for such non-running duties as may be required to be performed by them :

(a) When such non-running duties are performed by the running staff at their headquarters, they shall be paid the pay element of the Running Allowance, namely, 30% of the basic pay applicable for the day.

(b) When such non-running duties are performed by the running staff at outstations, they shall be paid ALK at the following rates :—

9. Simple reading of this rules shows that when running staff performs non-running duties at their headquarters, they shall be paid pay element of the running allowance namely 30% of the basic pay applicable for the day and when such non running duties are performed by the running staff at outstation, they shall be paid ALK at rates specified and the table given above is for revised rates of ALK (160 Kms/day) w.e.f. 01.11.1986 etc.

10. Simple reading of the above table it is clear as the facts which is not denied was that the applicant is a Goods Guard whose rates are shown in the pay scale of 1350 – 2200 and revised rate of ALK (160 Kms/day) w.e.f. 01.11.1986 at Rs. 45.05. And it is also made clear in the note that the allowances in lieu of kilometrage shall also be admissible for the intervening Sundays and Holidays while undergoing when they are on such duties. Further the applicant has provided RBE No. 85/2019 No. E(P&A)II-2013/RS-14, issued from the Railway Board, which gives kilometrage allowance.

11. As the facts and rules are not denied by either parties hence, the applicant has clearly made out a case for himself as per rule. I do not find that respondents have controverted the rules produced by the applicant. Hence, I have no doubt that the answer to both the questions framed are affirmative. And hence I pass following orders:

“The OA is allowed. As the applicant being a running staff on a stationary duty outside his headquarter between 03.08.2017 to 02.08.2018 was eligible for 160 Kms/day kilometrage allowance and between 03.08.2018 to 02.04.2019 ALK as admissible of the basic of his cadre and as it is already paid between December 2018 to April 2019 to the applicant, after verifying what payments have been already given to the applicant, the respondents shall calculate his arrears and dues and make necessary payments, as per rate prevailing at those days, he was present at that out station as stationary duty. The payment shall be made within a period of two months with 6% simple interest, from the date of receipt of a certified copy of this order.

12. All associated MAs, if any, also stand disposed of accordingly. No costs.