

18.03.2025
Crt. No.4
Item No. 4
PA

W.P.C.T. 39 of 2025
Union of India & Ors.
Vs
Arun Mukherjee & Ors.

Mr. Tapan Bhanja
...For the petitioner.

Mr. Arghya Mukherjee
... For the respondent.

Order dated 08.08.2024 passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata (hereinafter to be referred to as “Tribunal”) has been assailed through this present petition by the Union of India along with the other authorities.

The respondents herein were the petitioners before the Tribunal. They have retired from service as Chief Loco Inspectors, as such they had prayed for the following reliefs before the Tribunal.

“(i) An order directing the respondents to cancel, rescind, withdraw or set aside the perpetrated order/letter dated 6th December 2023 by the Sr. D.P.O., South Eastern Railway, Adra, being without due application of mind and in contrary to the principles of Natural Justice.

(ii) A direction upon the respondent authorities to enhance and/or add on element of the basic pay of the applicants to further 25% to make it 55% as component of running allowances due to the applicants from their respective dates of retirements.

(iii) An order granting leave to the applicants under Rule 4(5)(a) of CAT (Procedure) Rules, 1987 to move the application jointly.

(iv) A direction upon the respondent authorities to recalculate the retiral benefits of the applicants from the

date of their respective retirement, on the basis of 55% p.c. add on element to their basic pay at the time of retirement and pay the difference as arrears amounts with the interest @ 18% p.a. or as directed by this Hon'ble Tribunal.

(v) A direction upon the respondent authorities to pay the arrears of pay and allowances arising out of recalculate as prayed for herein above.

(vi) A direction upon the respondent authorities to pay interest @ 18% or as directed by the Hon'ble Tribunal on the arrears of pay and allowances arising out of recalculate of the retiral benefits of the applicants.

(vii) An order directing the respondents to produce entire records of the case before this Hon'ble Tribunal with copy to the Ld. Advocate appearing for the applicants for conscionable justice.

viii) Cost of the application with incidentals.

ix) Any other order or further order /orders as to this Hon'ble Tribunal may deem fit and proper."

The LD. Tribunal acceded to their prayer and has passed the following order which is under challenge:-

" Having considered that the applicants are similarly circumstanced as compared to the present applicants, we direct the Sr. DPO, S.E. Railway, Adra or any other competent respondent authority to revisit and reexamine the claim of the applicants taking into account the various judgments passed by the different forum and to refix the pension of the applicants

by enhancing the pay drawn by them by an additional 25% within a period of 4 months from the date of receipt of a certified copy of this order.”

Heard Mr. Bhanja representing the petitioners and Mr. Mukherjee representing the respondents.

The learned counsel for the railways does not dispute the fact that the order passed by the Tribunal is relying upon various pronouncements in this regard directing parity of Loco Inspectors with drivers and loco pilots.

From the submission of the Ld. Counsels the moot point which evolves for consideration is as to whether the respondents herein are entitled to 55% in place and instead of 30% running allowance to their basic pay for the purpose of calculating their pension and other retirement benefits or not.

The respondents herein had earlier filed an original application being OA No. 1195 of 2023 before the Ld. Tribunal and the Ld. Tribunal during the first round of litigation had disposed of the matter directing the authorities to consider the representation of the applicants. In consequence of the said direction the Sr. Divisional Personal Officer, Adra vide order dated 06.12.2023 had disposed of the application. Being dissatisfied with the aforementioned order the respondents preferred the second round of litigation before the Tribunal by filing an original application being OA No. 149 of 2024. In the said OA the Ld. Tribunal passed the impugned order which is under challenge.

The Tribunal has proceeded to consider that the specific issue regarding grant of parity to the Loco Inspectors, with Drivers and Loco Pilots has been settled by several judgments by different coordinate Benches of the Tribunal. Considering a judgment in this regard by the Principal Bench in O.A. 118 of 2006, which was affirmed by the Apex Court by dismissal of the Civil Appeal No. 3110 of 2016 in the case of *Union of India and Ors. -Vs.- Kishan Lall Sharma & Ors.* alongwith nine other tagged civil appeals, the Tribunal has allowed the claim of the applicants.

The consideration in this regard is to be found in paragraphs 5.1 to 5.3. of the order passed by the Tribunal which reads as follows:

“5.1. Although several judgments of different Co-ordinate Benches on the issue are available, we quote below the relevant extract of the judgment passed by the Principal Bench in OA no. 118 of 2006 in Vinod Kumar Saxena vs. UOI & Ors. decided on 24.08.2006.

“..... 21. Accordingly, for the foregoing reasons, applicant cannot be denied the add on component of running allowance to the tune of 55% or 75% with consequent fixation of pay and upward revision in the retiral benefits and payment thereof. Being similarly circumstanced with the petitioners before the Apex Court in G.C. Ghosh (supra), applicants before the Calcutta Bench in A. Amroll’s case (supra) as well as akin to Krishan

Lall's case (supra), applicant is also entitled to the same relief. Respondents are accordingly directed to refix the pay of applicant and enhance his pension and other retiral benefits by adding on 55% or 75% of the basic pay being pay element in running allowance as granted to loco running staff from the date of retirement with all arrears, within a period of three months from the date of receipt of a copy of this order. The OA is allowed accordingly. No costs." The ratio laid down by the Principal Bench has been upheld by the Hon'ble Apex Court by dismissing the CA nos. 3110/2016 (Union of India & Ors. vs Kishan Lall Sharma & ors.) plus 9 other tagged Civil Appeals/ SLPs vide order dated 22.02.2023. We are bound by the judgment of the Co-ordinate Bench on identical issue.

5.2. It is not disputed that the applicants are similarly circumstanced as the Chief Loco Inspectors who have been extended the benefit of fixation of pension on the basis of enhancement of their last pay by 55%.

5.3. Hon'ble Supreme Court in State of Karnataka & Ors. vs. C. Lalitha reported in Appeal (Civil) No. 919 of 2002 and decided on 31.01.2006, has held as under :- "Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the

Court that would not mean that persons similarly situated differently.”

The Tribunal has relied upon the judgments passed in respect of the same matter wherein the issue regarding grant of parity in the matter of fixation of last pay drawn by loco inspectors with drivers and loco pilots were considered and decided in favour of the loco inspectors.

The learned counsel for the railways has also not canvassed any submission so as to distinguish the claim of the present applicants petitioners. The order and judgment passed by the Tribunal in our opinion has not occasioned any injustice.

We, therefore, find that there is no infirmity in the order passed by the Tribunal and the same does not merit any interference by this Court.

The writ petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)