

पूर्व मध्य रेल
EAST CENTRAL RAILWAY



PCPO's Cir. Sl. No.127/2025

कार्यालय
महाप्रबंधक (का.)
हाजीपुर

No.ECR-HQOPERS (RULE)/0001/2025 (Com.No.309129)

Date: As Signed

1. CAO (Con.)/उत्तर एवं दक्षिण/पटना।
2. सभी PHOD/CHOD/पूमरे/हाजीपुर।
3. DRM/पूमरे/दानापुर, डीडीयू, धनबाद, सोनपुर एवं समस्तीपुर।
4. मुख्य कार्मिक अधिकारी/प्रशासन/पूमरे/हाजीपुर।
5. मुख्यालय के सभी कार्मिक अधिकारी।
6. CWM/पीडी/डीडीयू यांत्रिक कारखाना/समस्तीपुर एवं हरनौत।
7. Sr.DPO/पूमरे/दानापुर, डीडीयू, धनबाद, सोनपुर एवं समस्तीपुर।
8. उप महाप्रबंधक/विधि/पटना।
9. प्राचार्य/क्षेत्रीय रेल प्रशिक्षण संस्थान/मुजफ्फपुर एवं भूली।
10. सभी मुकार्याधी/कार्याधी/पूमरे/हाजीपुर।

विषय:- Dismissal of OAs by the Hon'ble CAT/Hyderabad in respect of claim of retired Chief Loco Inspectors for grant of 55% pay element for pensionary benefits.

संदर्भ:- Railway Board's letter No.-E(P&A)II/2025/Misc./5, Dated-30.09.2025.

विषयांकित से संबंधित संदर्भित पत्र की छायाप्रति सूचना एवं अग्रेतर आवश्यक कार्रवाई हेतु प्रेषित की जा रही है।

A copy of above referred letter on the subject matter is being forwarded herewith for information and needful onward action please.

DA: As above.

Digitally signed by
PRAKASH KUMAR SINGH
Date: 13-11-2025
11:59:54

सकाधि/ई.एस.एम.
कृते महाप्रबंधक (का.)/पूमरे/हाजीपुर

प्रतिलिपि/— निम्नलिखित को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित—

1. अध्यक्ष/आर.आर.बी./आर.आर.सी/पूमरे/पटना एवं मुजफ्फरपुर।
2. महासचिव/एस.सी.एवं एस.टी.एशोसिएशन/पूमरे/हाजीपुर।
3. सकाधि (एम.पी.पी.)/पूमरे/हाजीपुर—कृपया इसे वेबसाइट पर अपलोड कराने की व्यवस्था करें।
4. महासचिव/ओ.बी.सी.एशोसिएशन/पूमरे/हाजीपुर।
5. महासचिव/ईसीआरईयू/पूमरे/हाजीपुर।



भारत सरकार / GOVERNMENT OF INDIA
रेल मंत्रालय / MINISTRY OF RAILWAYS
रेलवे बोर्ड / RAILWAY BOARD

PCEE
PCPO
PFA
AIDRAM

No. E(P&A)II/2025/Misc./5

New Delhi, dt. 30.09.2025

The General Managers,
All Indian Railways

मं प्र०

सचिव

Sub: Dismissal of OAs by the Hon'ble CAT/Hyderabad in respect of claim of retired Chief Loco Inspectors for grant of 55% pay element for pensionary benefits.

Ref: Railway Board's letter Nos:

- E(P&A)II-2009/RS-18 dt. 04.12.2017-Circulation of the Hon'ble High Court, Allahabad's Judgment dt. 17.08.2017 in Writ-A No. 60133 of 2006- UOI & Ors. vs. A. Amrol & Ors.
- E(P&A)II/2024/Misc./1 dt. 02.04.2024- Circulation of the Hon'ble High Court of Madras Judgment dated 02.02.2024 in W.P. No. 1404 of 2015- UOI & Ors. vs. Registrar, CAT/Madras Bench & Ors.
- E(P&A)II/2025/Misc./ dt. 18.07.2025- Circulation of the Hon'ble CAT Allahabad Bench order dt. 30.06.2025 in O.A. No. 418/2023-Ved Prakash Dwivedi Vs. UOI & Ors.
- E(P&A)II/2025/Misc./5 dt.16.09.2025- Circulation of the Hon'ble Supreme Court Order dated 04.09.2025 in SLP (C) Diary No. 47186/2025- UOI & Ors. vs. Arun Mukherjee & Ors
- E(P&A)II/2025/Misc./5 dt. 23.09.2025- Circulation of the the Hon'ble CAT, Patna Bench order dt. 14.11.2024 in O.A. No. 051/0100/2022- Shri Yunus Hussain Vs. UOI & Ors.

Vide above references, orders of the Hon'ble CAT/High Court/SLP, all decided in the favour of Railway Administration, have been circulated to Zonal Railways with the advice to take note of these judgments, forward them to all concerned under their jurisdiction, and ensure that similar claims are defended in line with these judicial pronouncements.

In continuation, it is informed that 13 more OAs (lead case OA No. 656/2023) along with OA Nos. 619/2023, 645/2023,

646/2023, 546/2023, 5376/2023, 409/2024, 410/2024, 540/2024, 541/2024, 627/2024, 2178/2024 & 157/2025, filed by retired Chief Loco Inspectors, seeking grant of 55% pay element for reckoning of pensionary benefits, instead of 30% as provided under extant Railway Board's instructions, have been dismissed by the Hon'ble CAT/Hyderabad Bench, vide its common order dated 04.04.2025, which is circulated herewith for information, necessary action and record.

2. The Tribunal, after considering the submissions, has made the following important observations:

- Chief Loco Inspectors (CLIs) are supervisory staff on stationary posts, distinct from Running Staff. They do not perform continuous running duties and hence cannot claim parity with Running Staff who alone are entitled to 55% pay element on retirement.
- Railway Board's policy letter dated 25.11.1992, which allows only 30% add-on pay element to CLIs for pensionary purposes, continues to hold the field. None of the judgments relied upon by applicants had set aside this policy
- Applicants had already received 30% add-on benefit at the time of their promotion to CLI and continued to draw higher pay than Running Staff during service. Their claim for additional 55% at par with Running Staff was found to be unjustified.
- The Tribunal noted that earlier decisions cited by applicants were either per incuriam or dismissed in limine, and therefore do not alter the binding effect of the Supreme Court judgment in UOI vs. B. Banerjee (CA 7298/2013).
- The OAs suffered from inordinate delay, with applicants approaching the Tribunal 14 to 20 years after retirement. The Tribunal applied the principles laid down by Hon'ble Supreme Court in Tarsem Singh and Jagdish Lal cases and held that stale claims cannot be entertained.

3. In view of the above, the Tribunal has dismissed the OAs, holding that retired CLIs are not entitled to 55% pay element for pensionary benefits.

4. Zonal Railways are requested to circulate the enclosed order

among all concerned and instruct them to go through it carefully and keep the same in view while dealing with similar cases.

Encl: Copy of CAT/Hyderabad order dated 04.04.2025

Digitally signed by

Manoj Kumar

Date: 01-10-2025

10:12:35

(Manoj Kumar)

Dy. Director/Estt. (P&A)II

Railway Board

Tele No. - 011-47845113

Email ID : manoj.rb@gov.in

COFMOW Railway Office Complex, Tilak Bridge, New Delhi - 110002



OA/21/656/2023, 619/2023, 645/2023, 646/2023, 546/2023, 409/2024, 410/2024, 540/2024, 541/2024, 627/2024, 2178/2024 & OA/157/2025

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

**OA/21/656/2023, 619/2023, 645/2023, 646/2023, 546/2023,
576/2023, 409/2024, 410/2024, 540/2024, 541/2024, 627/2024,
2178/2024 & OA/157/2025**

HYDERABAD, this the 04th day of April, 2025



Hon'ble Dr. Lata Baswaraj Patne, Judicial Member
Hon'ble Ms. Shalini Misra, Administrative Member

OA/656/2023

1. D.P.MC Connell, S/o Late A.V. MC Connell, Aged 76 years, Occ: Chief Loco Inspector (Retd.) (Group-C), 070 Chief Operations Manager (Power), South Central Railway, Rail Nilayam, Secunderabad.R/o H.No: 6-41, Sri Lakshmi Nagar Colony, Domaiguda, Nagaram, Hyderabad-500083, Telangana State.
2. C.P.Suri Babu, S/o Late C.V.Pandurangam, Aged 68 years, Occ: Chief Loco Inspector (Retd.), O/o. Chief Safety Officer, South Central Railway, Rail Nilayam, Secunderabad. R/o H.No. 12-13.706, Tamaka, Street No.12, Kimtee Colony, Secunderabad-500017, Talanagna State.
3. M.A.Jameel, S/o Late M.A.Sattar, Aged 57 Year Occ: Chief Loco Inspector (Retd.), O/o Chief Operations Manager (Power), South Central Railway, Rail Nilayam, Secunderabad.R/o H.No.2.3.475,F.101, VankaS.S.Heights, Chappal Bazar, Rehmath Bagh, Kachiguda, Hyderabad-500027. Telangana State.

....Applicants

(By Advocate :Mr. KRKV. Prasad)

Vs.

- 1.Union of India represented by The Chief Executive Officer-cum-Chairman, Railway Board, Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
- 3.The Principal Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
- 4.The Principal Financial Advisor & Chief Accounts Officer, South Central Railway, Rail Nilayam, Secunderabad Division, Secunderabad.

..... Respondents

(By Advocate: Mrs. B. Gayatri Varma, Sr. CGSC)

OA NO. 645/2023



1. Pitani Purushotham Naidu,
S/o Late SreeRamulu,
Aged 56 years,
Occ: Chief Loco Inspector (Retd.) (Group-C),
South Central Railway,
Sanathnagar, Secunderabad Division,
R/o B-300, Allwyn Colony Phase-I,
Kukatpally, Hyderabad-500072,
Telangana State.

2. Prabhala Srinivasa Murthy,
S/o Krishna Murthy,
Aged 56 years,
Occ: Chief Loco Inspector (Retd.),
South Central Railway, Secunderabad,
Secunderabad Division,
R/o H.No. 26-108/1, Road No.2,
BN 208, Balaram Nagar,
Malkajgiri, Hyderabad-500047,
Talanagna State.

3. Tiwari Nagendra Prasad,
S/o Late Mukunda Prasad,
Aged 57 Years,
Occ: Chief Loco Inspector (Retd.),
South Central Railway, Secunderabad,
Secunderabad Division,
R/o H.No.7-7-24/3, Parvathi Nagar,
Near Vignes Grammar School,
Peerzadiguda, Hyderabad-500039,
Telangana State.

4. Gudipati Kondal Reddy,
S/o G. Laxma Reddy,
Aged 56 years,
Occ: Chief Loco Inspector (Retd.),
South Central Railway, Secunderabad,
Secunderabad Division,

R/o H.No. 2-3-763/D/2-F-206, Golnaka Tulasinagar,
Amberpet, Hyderabad-500013, Telangana State.

5. N. Babu Rao, S/o Late N. Subba Rao
Aged 62 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Sanathnagar, Secunderabad Division,
R/o H.No. 8-144, Road No.2, Vihari Homes,
Ismail Khan Guda, Rampally, Medchal District,
Telangana State-501 302.



6. N. Gouraiah, S/o N. Malliah,
Aged 56 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Secunderabad, Secunderabad Division,
R/o F.No. 14-7/303, Tirumala Residency,
Madhusudhan Nagar, Malkajgiri,
Hyderabad-500047, Telangana State.

7. P.M. Prasada Rao, S/o Late P.M. Sudarshanam,
Aged 68 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Secunderabad, Secunderabad Division,
R/o H.No.F.3/B, Saijyothi Apartment, Plot No.209,
Defence Colony, Sainikpuri,
Hyderabad-500094, Telangana State.

8. M.A. Hayee, S/o Abdul Lateef,
Aged 79 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Secunderabad, Secunderabad Division,
R/o H.No. 11-1-435, Flat No.9, Padma Apartment,
Mylargadda, Secunderabad-500061, Telangana State.

....Applicants

(By Advocate: Mr. KRKV Prasad)

Vs.

1. Union of India represented by
The Chief Executive Officer-cum-Chairman,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.

3. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.

4. The Divisional Railway Manager,
South Central Railway,
Secunderabad Division, Secunderabad.

5. The Senior Divisional Personnel Officer,
South Central Railway, Secunderabad Division, Secunderabad.

6. The Senior Divisional Finance Manager,
South Central Railway,
Secunderabad Division, Secunderabad.

....Respondents

(By Advocates: Mrs. B. Gayatri Varma, Sr. CGSC)



OA NO. 646/2023

1. Y. Ramesh, S/o Pitchaiah,
Aged 56 years, Occ: Chief Loco Inspector (Retd.) (Group-C),
South Central Railway, Vijayawada, Vijayawada Division,
R/o D.No. 42-4-320/1, SaiNivas, Near Library,
Ramakrishnapuram, Vijayawada (Urban),
Krishna District, Andhra Pradesh State-520003.

2. J.V. Ramanaiah, S/o J. Venkateswarlu,
Aged 57 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Vijayawada, Vijayawada Division,
R/o D.No.3-11, 7th Line, Ambedkar Nagar,
Opp: Ambedkar Bhavan, Santhanuthalapadu,
Prakasam District, Andhra Pradesh State-523225.

3. A. Lakshmana Kumar, S/o A. VenkataSubbaRao,
Aged 56 Years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Vijayawada, Vijayawada Division,
R/o D.No. 43-106/1-14, Flat No.304, Nandamuri Nagar,
Near Saibaba Temple, Bommarillu Apartments,
Andhra Pradesh Colony Road, Ajithsingh Nagar,
Vijayawada Urban, Krishna District, Andhra Pradesh State-520015.

4. K.Ch.Krishnaiah, S/o K. Subbaiah,
Aged 66 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Rajahmundry, Vijayawada Division,
R/o D.No. 102-7-382, New Employees Colony, Suddhakond Down, Opp:
J.L.B. Nagar, Bommuru, Rajahmundry Rural-533124,
East Godavari District, Andhra Pradesh State.

5. Ch. Satyanarayana, S/o Ch. Rosaiah,
Aged 56 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Rajahmundry, Vijayawada Division,
D.No. 20-6/7-223/4, 7th Line, Ramalingeswarapeta,
Near Hanuman Temple, New Ayodhya Nagar,
Vijayawada-520003, Krishna District, Andhra Pradesh State.

6. P.V.S. Narayana, S/o P. Sanyasi Rao,
Aged 57 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Rajahmundry, Vijayawada Division,
R/o D.No. 6-412/1, Flat No.202, Gangotri Heights,
Aravinda Nagar, Morampudi, Rajahmundry Rural-533107,

East Godavari District, Andhra Pradesh State.



7. Padmanabhan Ramesh, S/o Padmanabhan,
Aged 57 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Rajahmundry, Vijayawada Division,
R/o 5A, Venkateswara Street, Balaji Nagar Extension,
VTC: Anakaputhur, PO: Anakaputhur,
District: Kancheepuram, Tamil Nadu State-600070.

8. K.V. Unnikrishnan, S/o K.S. Velandi,
Aged 56 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Rajahmundry, Vijayawada Division,
R/o D.No. 3-22-2/1, Adharsha Nagar, Balasipeta,
Rajahmundry Rural-533101,
East Godavari District, Andhra Pradesh State.

9. G. Srinivasa Rao, S/o Srinamulu,
Aged 56 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Bitragunta, Vijayawada Division,
R/o Flat No.201, SP's Apoorva Residency, Ashramam Road,
Tadepalli, Guntur District-522501, Andhra Pradesh State

10. M. Syam Prasad, S/o Raghotham,
Aged 54 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Bitragunta, Vijayawada Division,
R/o D.No. 26-14-220, B.V.Nagar,
Nellore-524004, Andhra Pradesh State.

.....Applicants

(By Advocate: Mr. KRKV Prasad)

Vs.

1. Union of India represented by
The Chief Executive Officer-cum-Chairman,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
South Central Railway, Rail Nilayam, Secunderabad.
3. The Principal Chief Personnel Officer,
South Central Railway, Rail Nilayam, Secunderabad.
4. The Divisional Railway Manager,
South Central Railway,
Vijayawada Division, Vijayawada.
5. The Senior Divisional Personnel Officer,

South Central Railway,
Vijayawada Division, Vijayawada.

6. The Senior Divisional Finance Manager,
South Central Railway, Vijayawada Division, Vijayawada.

....Respondents

(By Advocate: Mrs. B. Gayatri Varma, Sr. CGSC)



OA NO. 546/2023

1. D.RamaNaik, S/o Late Bheemla Naik,
Aged 67 years, Retd. Chief Loco Inspector (Group-C),
O/o The Senior Divisional Mechanical Engineer (Power),
South Central Railway, Guntakal Division, Guntakal,
R/o H.No. 6/900, C-1, MasthanPeta, Near Bishop Church,
Kottala Road, Guntakal -515801.
2. Syed Mohammed Tajuddin, S/o Late S. MeeranMohiddin,
Aged 56 years, Retd. Chief Loco Inspector,
O/o The Crew Controller-in-Charge, Dhone,
South Central Railway, Guntakal Division, Dhone,
R/o H.No. 6/1061-E-16A, Bhagya Nagar,
Guntakal-515 801
3. A. Yellappa, S/o Late A. Thokanna,
Aged 62 years, Occ: Retd. Chief Loco Inspector,
O/o The Chief Crew Controller, Gooty,
South Central Railway, Guntakal Division, Gooty,
R/o H.No 6-1275-B, Bhagya Nagar, Near AddalaMeda,
Guntakal-515801.
4. P. ManoharBabu, S/o Late P.C. Jhon,
Aged 58 years, Occ: Retd. Chief Loco Inspector,
O/o The Chief Crew Controller,
South Central Railway, Guntakal Division, Guntakal,
R/o D.No 2/718, Modinabad, Rail Nagar, Guntakal -515801
5. Gorakhnath Shaw, S/o Late Radha Prasad Shaw,
Aged 59 years, Occ: Retd. Chief Loco Inspector,
O/o The Chief Crew Controller, Gooty,
South Central Railway, Guntakal Division, Gooty,
R/o D.No. 5/120-A, Maruthi Nagar, Kasapuram Road,
Near Sri Dattatreya Temple, Guntakal -515803.
6. K.Sikhamani, S/o Late Kumaraswamy,
Aged 61 years, Occ: Retd. Chief Loco Inspector,
O/o The Chief Crew Controller,
South Central Railway, Guntakal Division, Guntakal
R/o H.No. 6-900-70/2, Near Victory Prayer Church,
KottaKottala, Bhagya Nagar, Guntakal-515801.
7. M. Chandra Sekhar, S/o Late M.V.Guruvaiah,
Aged 53 years, Occ: Retd. Chief Loco Inspector,

O/o The Crew Controller-in-Charge, Dharmavaram,
South Central Railway, Guntakal Division, Dharmavaram,
R/o D.No. 29-178-30/J-102, SaiJyothi Towers,
SBI Colony, Nandyal-518501.

....Applicants

(By Advocate: Mr. KRKV. Prasad)

Vs.



1. Union of India represented by
The Chief Executive Officer-cum-Chairman,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. The Senior Divisional Personnel Officer,
South Central Railway,
Guntakal Division, Guntakal.
5. The Senior Divisional Finance Manager,
South Central Railway,
Guntakal Division, Guntakal.

....Respondents

(By Advocates: Mrs. K. Rajitha. Sr. PC for CG)

OA NO. 576/2023

1. Ram Narain, S/o DayaKishan,
Aged 57 years, Occ: Chief Loco Inspector (Retd.), Group-C,
South Central Railway, Kacheguda,
Hyderabad Division,
R/o D.No. 4-6-50, Lane -5B, VenkatSai Nagar,
Chengicherla, Boduppal, MedchalMalkajgiri District,
Telangana State-500092.
2. A.N. Giridhar, S/o A.B. NarsingRao,
Age 56 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Kacheguda, Hyderabad Division,
R/o D.No. 5-9-251/46/1, Shaili Gardenia,
Near DYP Garden, Yaprul, Malkajgiri,
Telangana State

....Applicants

(By Advocate: Mr. KRKV Prasad)

Vs.



1. Union of India represented by
The Chief Executive Officer-cum-Chairman,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. The Senior Divisional Personnel Officer/
Divisional Personnel Officer (Co-ordination),
South Central Railway,
Hyderabad Division, Secunderabad.
5. The Senior Divisional Finance Manager,
South Central Railway,
Hyderabad Division, Secunderabad.

....Respondents

(By Advocates: Mrs. B. Gayatri Varma, Sr. CGSC)

OA NO. 619/2023

1. P. BabuRao, S/o Samuel John,
Aged 61 years, Occ: Chief Loco Inspector (Retd.) Group-C,
South Central Railway, Guntur, Guntur Division,
R/o D.No. 26-38-143/23A, 2nd Lane,
Sriram Nagar, A. T. Agharam,
Guntur-522004, Andhra Pradesh State.
2. S.C.Biswas, S/o Sudhir Kumar Biswas,
Aged 59 years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Nandhyal, Guntur Division,
R/o H.No.84, PurbashaNearPurbasha Sporting Club,
P.O. Hridaypur, Dt. North - 24 Paraganas,
Kolkatta-700 127, West Bengal State.
3. D. JagannadhaRao, S/o Satyanarayana,
Aged 56 Years, Occ: Chief Loco Inspector (Retd.),
South Central Railway, Guntur, Guntur Division,
R/o D.No. 6-353, RajulaVeedhi, Bhogapuram(P.O.),
Vizianagaram District, Andhra Pradesh State.
4. P. Krishna Reddy, S/o Koti Reddy,
Aged 56 yrs, Occ: Chief Loco Inspector (Retd.),

South Central Railway, Guntur, Guntur Division,
R/o Flat No. 202, LalithaBharathi Heights, 1st Line,
Pattabhipuram, Guntur-522006, Andhra Pradesh State.

....Applicants

(By Advocate: Mr. KRKV Prasad)

Vs.



1. Union of India represented by
The Chief Executive Officer-cum-Chairman,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.

3. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.

4. The Divisional Railway Manager,
South Central Railway, Guntur Division,
Guntur.

5. The Senior Divisional Personnel Officer,
South Central Railway,
Guntur Division, Guntur.

6. The Senior Divisional Finance Manager,
South Central Railway,
Guntur Division, Guntur.

....Respondents

(By Advocates: Mr V. Vinod Kumar, Sr. PC for CG)

OA/409/2024

Mahendra Kumar Bandu Sonawane,
S/o Late Bandu.S,
Aged 61 years, Occ: Chief Loco Inspector (Retd.), Group C,
O/o Senior Divisional Mechanical Engineer,
South Central Railway, Nanded Division, Nanded,
R/o Flat No. 1, Gaurav Apartment, Plot No. 106,
Jalan Nagar, Aurngabad-431001, Maharashtra State.

....Applicant

(By Advocate: Mr. KRKV Prasad)

Vs.

1. Union of India represented by
The Chief Executive Officer-cum-Chairman.

(Exofficio Secretary to the Government of India)
Ministry of Railways, Railway Board,
Rail Bhavan, New Delhi-110 001.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad-500 071.

3. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.



4. The Senior Divisional Personnel Officer,
South Central Railway,
Nanded Division, Nanded-431 605.

5. The Senior Divisional Financial Manager,
South Central Railway,
Nanded Division, Nanded-431 605.

....Respondents

(By Advocates: Mrs. K. Rajitha, Sr. PC for CG)

OA NO. 410/2024

Shaik Ahemed, S/o Late Shaik Mastan,
Aged 62 years, Occ: Chief Loco Inspector (Retd.) (Group C),
O/o Chief Crew Controller,
South Central Railway, Nanded Division
Purna R.S., R/o H.No:4-7-1, Chand Manzil,
Mahavir Nagar, Purna, District Parbhani,
Maharashtra State - 431511.

....Applicant

(By Advocate: Mr. KRKV Prasad)

Vs.

1. Union of India represented by
The Chief Executive Officer-cum-Chairman,
(Exofficio Secretary to the Government of India)
Ministry of Railways, Railway Board,
Rail Bhavan, New Delhi-110 001.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad-500 071.

3. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.

4. The Senior Divisional Personnel Officer,
South Central Railway,
Nanded Division, Nanded-431 605.

5. The Senior Divisional Financial Manager,
South Central Railway,
Nanded Division, Nanded-431 605.

....Respondents

(By Advocates: Mrs. B. Gayatri Varma, Sr. CGSC)

OA NO. 540/2024

V.P. Indira, W/o. P. Govinda Menon, aged about
Years, (Retired Senior Loco Inspector),
Resident of H.No.12/17-D, Near Court,
Kasapuram Road, Guntakal-515801.
Phone: 8143765255, Mail: kvraoadv@gmail.com

....Applicant

(By Advocate: Mr. K. Venkateswara Rao)

Vs.

1. Union of India, represented by the
General Manager, South Central Railway,
Rail Nilayam, Secunderabad

2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.

3. The Divisional Railway Manager,
Guntakul Division,
South Central Railway, Guntakul.

....Respondents

(By Advocates: Mr. M. Brahma Reddy, Sr. PC for CG)

OA/541/2024

Govind Shyam Ram Bai, W/o. Late Govind Shyam
Kumar Singh, aged about 71 years, Flat No. 203,
H.No.5/4/1309/2, Sharada Nagar, 3rd Phase,
Vanastalipuram, Hyderabad - 500070.
Phone: 8143765255, Mail: kvraoadv@gmail.com

....Applicant

(By Advocate: Mr. K. Venkateswara Rao)

Vs.

1. Union of India, represented by the
General Manager, South Central Railway,
Rail Nilayam, Secunderabad

2. The Chief Personnel Officer,
South Central Railway,

Rail Nilayam, Secunderabad.

3. The Divisional Railway Manager,
Guntakul Division,
South Central Railway, Guntakul.

....Respondents

(By Advocates: Mr. V. Vinod Kumar, Sr. PC for CG)

OA NO. 627/2024



Rita, W/o. T. Athan, aged about 74 years,
(Retired Senior Loco Inspector) and now
Resident of H.No.13/183-B-17,
Vijayanagar Colony (North), Kasapuram Road,
Guntakal-515801, Anantapur District.

....Applicant

(By Advocate: Mr. K. Venkateswara Rao)

Vs.

1. Union of India, represented by the
General Manager, South Central Railway,
Rail Nilayam, Secunderabad-500017.

2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad-500017.

3. The Divisional Railway Manager,
Guntakul Division,
South Central Railway, Guntakul-515801.

....Respondents

(By Advocates: Mr. M. Brahma Reddy, Sr. PC for CG)

OA NO. 2178/2024

Corry Rebecca Carol Ann, D/o Late Corry Ivor
Patric Ronald, (Retired Junior Loco Inspector),
Aged about 53 years, Resident of D.No. 6-610-9-C,
Prashanti Nagar, Guntakal.

....Applicant

(By Advocate: Mr. K. Venkateswara Rao)

Vs.

1. Union of India, represented by the General
Manager, South Central Railway,
Rail Nilayam, Secunderabad.

2. The Chief Personnel Officer, S.C. Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager,
Guntakal Division, S.C. Railway, Guntakal.

.....Respondents

(By Advocate: Mrs. B. Gayatri Varma, Sr. CGSC)



OA NO. 157/2025

J. Deepthi Prathyusha, D/o. Late K. Bheemalingappa,
Aged about 32 years, Ex.SLI/DME/P/O/GTL and
Now resident of 5-93, Porter Line, Guntakal,
Anantapur District, Andhra Pradesh.

.....Applicant

(By Advocate: Mr. K. Venkateswara Rao)

Vs.

1. Union of India, represented by the
General Manager, South Central Railway,
Rail Nilayam, Secunderabad-510017.
2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad-510071.
3. The Divisional Railway Manager,
Guntakal Division, South Central Railway,
Guntakal-515801.
4. Divisional Personnel Officer,
South Central Railway, Guntakal-515801.

....Respondents

(By Advocates: Mr. K. Ravi Krishnakanth, Addl. CGSC)

ORAL ORDER (COMMON)
(As per Hon'ble Dr. Lata Baswaraj Patne, Judicial Member)



Since the issue involved in all the OAs is similar, all these OAs are taken up and heard together and a common order is being passed with the consent of the parties. However, the pleadings in OA/656/2023 are being referred to in this order.

By this OA/656/2023, the applicants have sought the following relief:

".....to call for the records pertaining to the representations of the applicants and Railway Board letter No.E(P&A)II-2015/RS-23 dated 13.11.2017; and declare the action of the respondent South Central Railway in settling the pensionary dues and the pension of the applicants with 30% add-on element to the basic pay as illegal, arbitrary; and direct the respondents to re-calculate the emoluments of the applicants by adding 55% add-on element, and accordingly pay the difference in pensionary benefits and other attendant benefits including the arrears of pension and other allowances from the date of retirement of the applicants by revising the pension payment orders with a further direction to pay interest @ 8% on the differential amount to be paid for the period from the date when the payment became due till the date of actual payment, duly awarding cost of litigation to be paid by the respondents to the applicants and pass such other order or orders in the interest of justice."

2. The brief facts of the case are that the applicants have retired in the post of Chief Loco Inspectors in Zonal Headquarters of South Central Railway. In respect of the similarly situated employees, after their cases have attained finality, they were granted the benefit of 55% add-on pay element instead of 30% for the purpose of retirement dues and pension. Even after the said orders have been implemented in respect of the similarly situated Chief Loco Inspectors, the said benefit was not extended to these applicants. Based on the rejection replies given to similarly placed

applicants of other Divisions of South Central Railway e.g. Guntur Division, OAs are already filed.

3. Learned counsel for the applicants submits that the applicants, prior to their promotion to the post of Supervisory cadre of Loco Inspector, worked in the running cadre of Loco Pilot and subsequently, retired from service in same cadre (merged cadre of Chief Loco Inspector) in Zonal Head quarters of South Central Railway. The duties of Loco Inspector involve foot plate inspection to proceed in the Loco run by the Loco Pilots for monitoring and counselling duties. The learned counsel for the applicants further argued on the point that, the post of Loco Inspector, Crew Controller and Power Controller will be exclusively filled only from the Loco Running side and the post of Assistant Loco Foreman and Loco Foremen will be from Loco maintenance side. The respondents have noticed the problem of filling up the post of Loco Running Supervisors on account of drop in emoluments of Running Staff on coming over as a Loco Running Supervisors. To fix the same, the pay fixation on posting as Power Controller, Crew Controller and Loco Inspector has been done by adding an element of 30% of basic pay to their pay on acceptance of the post of Loco Inspector, Crew Controller and Power Controller. Further, Loco Inspectors are directly connected with the trains and they have to monitor the performance of running staff as well as they have to train them. On retirement of the employees from Running Cadre, they are getting 55% pay add on element for pensionary benefits. However, the applicants have not



been extended with the said benefit, though the issue on the said claim of 55% pay element for pensionary benefits has been settled by various orders. In the matter of similarly situated employees, following with the decision of the Hon'ble Apex Court in SLP No.939-945/1983, in the case of *Union of India vs. Smt. Afsar Jahan Begum and Others*, decided on 20.07.1988. Tribunal has allowed the OA filed by another employee by name Kishan Lal Vs. Union of India & Ors. in OA/229/2000, vide order dt. 16.10.2001, and the order was upheld in WP. No.960 of 2002 filed by the Department before the Delhi High Court and the same was also upheld by the Hon'ble Supreme Court in SLP, vide their judgment dated 04.01.2005. Subsequently, the same benefit has been extended, following the ratio in earlier judgment in OA.No.1545/2002, dated 15.07.2005, in the matter of *Vinod Kumar Saxena vs. Union of India and others*. Subsequently, relying upon the said decision, another OA No.1271/2005 filed by *Yogender Lal Sharma vs. Union of India and others* vide its order dated 16.11.2006 came to be allowed.

4. Learned counsel for the respondents are denying the said benefit despite promulgation of Advance Correction Slip no.412-RII, vide notification dated 25.11.1992, to the employees, who are post retirees of 01.01.1993. Thereby, the Co-ordinate Bench, New Delhi in OA/1273/2005, following with the same ratio has extended the benefit of add on element of 55% and 75% respectively to the applicants therein. The said orders were challenged before the Hon'ble Delhi High Court by the respondents in WP.

(C) No.2937/2007 and other connected WPs. The Hon'ble High Court declined to interfere with the orders. Though an attempt has been made by the respondents by filing a Review Petition No.377/2015 and the same also came to be dismissed. The orders passed in the matter of **Kishan Lal Sharma and others** has been upheld by the Hon'ble Supreme Court, vide Civil Appeal No.3110/2016, dt.22.02.2023.



The learned counsel for the applicants further contended that, the Hon'ble Supreme Court in the matter of **G.C. Ghosh vs. Union of India** 1991 Supp (2) SCC 497 have considered the issue of parity in employment and the benefit in the employment in one section of Railways granted by the High Court judgment has to be extended to other sections. Following with the said judgment, this Tribunal also held in favour of the other similarly situated employees, who have approached this Tribunal and those orders also were upheld by the Hon'ble High Court and the respondents have implemented the orders.

The learned counsel for the applicants further argued by relying upon the orders passed by the Coordinate Bench CAT, Mumbai in OA/324/2016 dated 03.08.2023 in the matter of **Umashankar R. Tripathi and Others**, wherein after considering orders of, the Hon'ble Supreme Court passed in the matter of **Union of India and others vs. B. Banerjee** the Coordinate Bench allowed the OAs of similarly situated persons. However, as far as the benefit of arrears, on the ground of abnormal delay, have been restricted to three years prior to filing of the OA, in view of ratio laid down by the



Hon'ble Supreme Court in the matter of *Union of India vs. Tarsem Singh (2008) 8 SCC 648*. The learned counsel for the applicants further contended that the orders of the Co-ordinate Bench, Mumbai have been recently confirmed. Learned counsel for the applicants submits that even thereafter, the order of the Co-ordinate Bench, New Delhi passed in the matter of *Ajit Singh and Others in 1013/2016* has been upheld in WP No.11881/2024 vide order 01.10.2024 by the Hon'ble High Court, New Delhi. Learned counsel further submitted that the Co-ordinate Bench, Calcutta in OA/95/2016 dated 26.02.2024 titled as *C. Subut Kumar Brahma and Others* also extended similar benefit. Therefore, according to the learned counsel for the applicants, the issue involved in the matter is no more res-integra and is squarely covered by the orders passed by Coordinate Benches of the Tribunal, which were upheld, up to the Hon'ble Supreme Court and the same have been implemented by the respondents. Therefore, the applicants are entitled for the benefit prayed in the OAs.

5. On the other hand, learned counsel for the respondents vehemently opposed the relief on the ground of delay, as the applicants had retired from service in the years 2003, 2006 and 2009 and had accepted their retirement benefits and did not raise any objection. Further, the application has not been filed within period of limitation as prescribed in Section 21 of Administrative Tribunal Act, 1985. All the applicants, who had retired approached this Tribunal more than 14 years to 20 years after their retirement without filing any condone delay petition. Therefore, following

with the observation of Hon'ble Supreme Court in the matter of *Ramesh Chand Sharma Vs. Uddham Singh Kamal 1999 (2)-SCSLJ 294*, without filing application condonation of delay is not a right and the OA cannot be decided on merits, overlooking the statutory provisions contained in Section 21 of Administrative Tribunal Act.



The learned counsel for the respondents further contended that, the OAs are liable to be dismissed even in the light of the observations made by the Hon'ble Supreme Court in the matter of *Jagdish Lal vs. State of Haryana* that the delay disentitles a party to the discretionary relief under Articles 226 or 32 of the Constitution. Further, the applicants slept over their right for long time and woke up when they had impetus from *Union of India vs. Veerpal Singh Chauhan-(195) 6SC684*. Therefore, the desperate attempt of the applicants is not amenable to the judicial review at this belated stage.

6. The learned counsel for the respondents further argued by relying upon the judgment of the Hon'ble Supreme Court in the matter of *State of Uttar Pradesh vs. Arvind Kumar Srivastava*, wherein, while dealing with a claim of similarly situated employees have denied the benefit of parity considering the well recognized principle exception in the form of laches and delay as well as acquiescence. Learned counsel urged that the applicants did not challenge the wrongful action in their cases, at the relevant point of time as per rules, and acquiesced to the same and woke up after a long delay, only because of the reason that their counterparts who



have approached the court in time, succeeded in their efforts. Therefore, the applicants cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. Thereby, they would be treated as fence sitters and laches and delay, and / or the acquiescence would be a valid ground to dismiss their claim. Accordingly, the applicants are not entitled for any relief.

The learned counsel for the respondents further argued on the point that as held by the Hon'ble Supreme Court in the matter of *Shiba Shankar Mohapatra and others vs. State of Orissa*, "It is settled law that the fence-sitters cannot be allowed to raise the dispute or challenge the validity of the order after its conclusion. No party can claim the relief as a matter of right as one of the grounds for refusing relief is that the person approaching the court is guilty of delay and the laches. The court exercising public law jurisdiction does not encourage agitation of stale claims where the right of third parties crystallizes in the interregnum." In the case of *Bhoop Singh Vs. Union of India (1992 21 ATC 675)*, it has been held that "Inordinate delay or laches, by itself, is a ground to refuse claim to the petitioner, irrespective of the merit of his claim. If a person is entitled to relief and chooses to remain silent for long, he thereby gives rise to a reasonable belief in the minds of the others that he is not interested in claiming that relief".

7. Further, the learned counsel for the respondents submits that the applicants are not coming under the category of running staff. As per Rule

3 (iv) of the Running Allowance Rules, 1981, the term 'Running Staff'

refers to Railway Servants of the category mentioned below:

Running Duties as per Rule 3 (iii) of the Rules mean duties directly connected with the movement of trains and performed by Running Staff while employed on moving trains.



LOCO	TRAFFIC
1. Drivers (including Motormen and Rail Motor Drivers, but excluding Shunters).	1. Guards
2. Shunters	2. Assistant Guards/ Brakesmen
3. Fireman (including Diesel Assistants and Electric Assistants).	
4. Second Firemen	

The applicants do not have locus to challenge the Railway Board letter dated 13.11.2017, as they had already retired voluntarily/ on Superannuation way back in the year 2003, 2006, and 2009. And their retirement benefits were already settled and this letter is nothing but reiteration of the provisions contained in the Railway Board policy letter dated 25.11.1992. As per para 5.5 of the said letter, Loco Inspectors are entitled for 30% pay only for the retiral benefits and by this letter, it is reiterated that Loco Inspectors are not classified as running staff. Therefore, they are not entitled to 55% pay element for pensionary benefits. Further as per para.9.2 of IREM, the Loco Inspectors are not classified as

running staff. The applicants who retired on VRS/ Superannuation as Loco Inspector are not entitled for 55% add-on pay element on their pensionary benefits, either under Railway Board policy letter dated 25.11.1992 or as per para.902 (iv) of IREM since they are not classified as running staff.



Therefore, the applicants representations have been disposed of vide letter dated 14.12.2023.

Learned counsel for the respondents further contended that none of the orders, which were passed by various Tribunals, though they were upheld by the Hon'ble High Court and even the Supreme court and the Supreme Court has dismissed the department respondents SLPs in limine and has not touched the policy of the Railway Board under the said letter dated 25.11.1992 and none of the courts while extending the benefit have given the reasons for the extension nor set aside the letters guidelines/policy decisions.

8. It is further argued by the learned counsel for the respondents that as per the Railway Board letter dated 25.11.1992 which reads as under. The applicants are not entitled for the relief sought:

"5.5 "For the purpose of pensionary benefits, the basic pay shall also include, with effect from 01.01.1993, an add-on element of 30% of basic pay in the case of Loco Inspectors. If a Loco Inspector retires before completing a period of 10 months under this scheme, he shall be permitted the benefit of add-on element to basic pay on pro-rata basis depending on the actual period of service under the scheme. The benefit of add-on element to basic pay shall not be admissible for any other purpose other than computation of pensionary benefits".

Accordingly, the Indian Railway Establishment Code Volume II has been revised by issuing of Advance Correction Slip No 21 R-II issued by Board vide letter No. E(P&A)II/83/RS-10(III) dated 25.11.92. As of now, applicants are getting more than the 69% ad on pay element including the at the time of promotion and retirement, wherein actual running staff are getting 55% only.



Therefore, the applicants have suppressed the facts before the courts about adding 30% pay add-on element at the time promotion and they are comparing with the running staff for settlement of pensionary benefits to gain excess amount which is illegal.

9. The learned counsel for the respondents further contended that, when the similar issue has been reached up to the Hon'ble Supreme Court in the matter of *Union of India vs. B. Banerjee and others* when the Tribunal as well as the Hon'ble High Court extended the benefit, the issue has been considered in detail in Civil Appeal No.7298/2013, vide order dated 03.09.2013, after going through the relevant provisions of the Running Allowance Rules 1981, as embodied in the Indian Railway Establishment Manual Vol.I (revised addition 1989). Rule 902 (2) (iii) defines running duties. Further, Sub Rule (iv) of Rule 902 refers to which posts belong to running staff. Sub Rule (v) of Rule 902 defines, Running Allowance. Further, as per Rule 903, 30% of the basic pay of the running staff to be treated as pay representing pay element in the running allowance. Rule 905 deals with types of allowance admissible to the running staff. Further, Rule



907 deals with the allowance in lieu of Kilometerage (ALK) and from the said rules, it is observed that only a specific category of employees in the Railways like Drivers, Motormen, Firemen, Guards, Assistant Guards etc., who constitute the running staff and such staff, who are directly connected with the movement of the trains, perform running duties. Running Allowance under the rule is required to be paid only to the running staff, who are engaged in the performance of duties directly connected with the movement of the trains and such allowances include kilometrage allowance, while a kilometrage allowance. While kilometrage allowance is to be paid for performance of actual running duties, the allowances in lieu of kilometrage is to be paid to such a member of the running staff who are temporarily required to perform stationary duties. The rules also make it clear that 30% of the basic pay of the running staff is required to be treated as representing the pay element in the Running Allowance. Those members of running staff who are employed on non-running duties are paid the aforesaid 30% of basic pay, if such a non-running duties are performed at the Headquarters whereas, in case, such a non-running duties are performed by the running staff at outstations, they are required to be paid ALK at the rates prescribed by Rule 907 (b) and no such allowance will be paid to the persons who are working on stationary post who were shifted from this running cadre to the stationary posts on permanent basis or on promotion or on medical decategorization. The Running Allowances will be paid to the running staff, who are directly engaged in actual movement of trains or such staff who are temporarily assigned stationary duties, but

who are likely to go back and perform a running duties. Therefore, the applicants, who have been promoted the post of Loco Inspector, are fully aware that they are on supervisory duties and their suggestions will be taken as and when required to train the drivers. As per para 3.2 of Railway Board letter dated 25.11.1992, they have to perform the duties directly connected with the training and monitoring of the loco running staff on foot plate of locomotive cabs of the moving trains. Again it is clarified that merely accompanying the Loco Running Staff of moving train does not entitle the Chief Loco Inspector to be defined as a running staff as per the applicants' claim and the Chief Loco Inspector during the foot plate does not actually drive the train, but they monitor the driving pattern of the Driver and suggest appropriate solution as Assistant Loco Pilot and suggest appropriate solution on board keeping the safety aspect in the mind. The persons, who were selected as Chief Loco Inspector, are from the running staff, who are eligible and qualified to perform the said supervisory duties, since the outsider staff from other department/ staff would not know the functionalities and manoeuvrings which require special skills for which the running staff are trained initially and also through successive refresher courses. The decision to allow 30% of pay add-on element at the time of joining as CLI and also at the time of retirement was to encourage the staff to take up the duties of CLI. It is pertinent to mention that the conscious decision to allow 30% pay element at the time of retirement was taken in consultation with the representatives of the Organized Labour at the Railway Board Level. Therefore, the applicants' contention that it is unfair is not acceptable. The applicants are



fully aware that being CLI, they have to perform only supervisory duties.

The CLIs do not accompany the Loco Running Staff from the starting point to their ending point i.e. to sign on to sign off, but have got liberty to get down at any station of their choice as per their convenience, as compared to the loco running staff, who have fixed duty hours and duty links are provided to the staff to run the train. Therefore, there is no question at all to claim the 55% pay element at the time of retirement and it will be injustice to the running staff, who are performing the duty as running staff without the said 30% of add on element in their pay and they are getting the said 55% pay element only after their retirement, whereas the persons who were promoted or shifted to the stationary duties, the moment they have been shifted from the running cadre, 30% add on pay element will be given to them and same will be continued even after the retirement. There is no comparison between the running staff and the applicants and the others who are serving as a Chief Loco Inspector on Supervisory duty or permanently shifted on stationary duty.

10. The learned counsel for the respondents further contended that the judgment of the Hon'ble Supreme Court in the Union of India vs. B. Banerji holds good and it applies to the matters whoever coming before the courts after 2013. The learned counsel for the respondents further relied upon the decision taken by the Hon'ble Allahabad High Court in WP No.60133/2006, titled as Union of India and others vs. A. Amrol, a retired Loco Inspector following with the orders passed by the Hon'ble Supreme

court in the matter of Union of India vs. B. Banerji in Civil Appeal No.7298/2013, which has set aside the orders passed by the CAT Coordinate Bench, Allahabad vide order dated 16.05.2006.

Considering the fact that 30% of basic pay of the running staff represented the pay element in the running allowance for which the persons who are similarly situated like applicants are entitled. Considering the services rendered by them as a running staff prior to the said promotional part of their pay in the post has been protected as part of their pay in the post of Chief Loco Inspector, Crew Controller or any other Stationary Post where they permanently shifted from the running staff. Since Running Allowance is to be paid to the running staff only for performing actual running duty, thereby even though relying upon the earlier orders, CAT, Allahabad passed the similar order extending the similar benefit, which came to be set aside and the said order has not been challenged, and it attained finality.

11. The learned counsel for the respondents, refuting the stand taken by the learned counsel for the applicants by relying upon the order passed by the CAT Mumbai wherein just reference has been given to the order of the Hon'ble Supreme Court and no observation or analysis has been made. Thereby, the order which is relied upon by the applicants passed by the CAT Mumbai in OA/324/2016 dt. 03.08.2023 has to be taken as per incuriam. In fact, on face of record, it is contrary and against the detailed judgment of the Hon'ble Supreme Court, which holds the field.



Learned counsel for the respondents further contended that none of the judgements referred by the learned counsel for the applicant has discussed the Railway Board's Letter dated 25.11.1992. Therefore, in judicial review, the courts cannot extend the scope of the policy decision.

The learned counsel for the respondents further relied upon the order passed by the Hon'ble High Court of Madras in WPNo.1404/2015, wherein, vide its order dated 02.02.2024, the Hon'ble High Court have considered the

matter in detail on the ground of delay as well as characteristic of designation. Considering the rules of responsibility of Loco Inspector under the rules which prove that Chief Loco Inspectors are not running staff, but stationary staff and also noticing the fact that officers from Mechanical, Electrical, Safety and other department also perform the foot plate inspection regularly, but they are not reckoned as the running staff as they have been appointed to perform foot plate inspection. Learned counsel for the respondents categorically mentioned the fact that the Chief Loco Inspectors are not actually driving the train and train can run without Chief Loco Inspector, but cannot run without running staff. The learned counsel for the respondents further contended that none of the judgements even passed after the detailed judgment of the Hon'ble Supreme Court in the matter of Union of India and B. Banerji have referred to their order nor even referred to the provisions under the IREM. As such, the applicant's claim to be treated at par with running staff and claim the benefit of 55% have to be rejected on merit as well as delay and laches. Even as fence sitter, they are not eligible and entitled for the relief sought. The orders

referred to by the learned counsel for the applicants are per incuriam. None of the order wherein SLPs were dismissed on merit, and they were dismissed in limine. Therefore, as held by the Hon'ble Supreme Court in many of the matters/ judgments, wherein law has been discussed will hold good. The learned counsel for the respondents further contended that recently even in SLP No.9825/2018, 9826/2018 in the matter of *Union of India vs. S. Gangadharam etc.*, while considering similar issue, after persons, who have retreating the fact that the persons, who have retired as medically decategorized running staff and who opted for voluntary retirement, instead of opting for redeployment in the alternative stationary post, shall be entitled to pension computed with addition of 30% of pay element or with addition of 55% of element. Since the persons who opted for voluntary retirement after their medical decategorization from running staff and have not opted for redeployment in alternative stationary post, they have to be treated as running staff and on their retirement, they are entitled for 55% benefit. If at all, they have been paid 30% pay element on their retirement while allowing with the pension with addition of 55% pay element, the same would be subject to deducting 30% pay element fixation benefit already granted earlier. The said observation clears that the moment they have accepted their redeployment on stationary post, they are not entitled and eligible for the benefit of 55% on pay element on their retirement. The Loco Running Supervisors CLIs are actually granted benefit of 69% of add-on pay element in computing their pensionary benefits, which is much more than 55% pay element admissible only to all the running staff after their



retirement in their pension. As the Loco Running Supervisors (CLIs) ceased to be running staff from the date of their appointment as a Loco Supervisors, they are not entitled for 55% pay element as reckoned in the case of Running Category for the purpose of pensionary benefit. If contention of the applicants has been accepted who are from the Stationary staff then they will be benefitted to the tune of Rs.101.5% considering Basic Pay as 100 and adding pay element 30% on it = 130; adding 55% pay element on 130=201.5%) i.e. 30% at the time of pay fixation from running to stationary post and switching over from the running to stationary post and 55% pay element granted by the Hon'ble Courts. Therefore, this additional 101.5% pay element is neither admissible to any category of the staff on the Railway nor any Rule provides so. Further, none of the courts have struck down any rule governing the running staff and without doing so, it would be irregular to grant the benefit to the stationary staff, which are exclusively admissible to running staff.

Comparing with the rule position and as being claimed by the applicants vis-a-vis Running Staff is given below for better appreciation. For ease of calculation and understanding, a figure of Rs.100 has been taken as Basic Pay which reads as under:

Particulars	CLI		Running Staff
	As per Railway Board's extant rule position envisaged in Board's letter dt.25.11.1992	As claimed by the applicant	
(A)	(B)	(C)	(D)



Basic pay (BP)	100	100	100
New BP	BP+30%=100+30=130	BP+30%=100+30=130	BP+30%=100+30=130
	Fixation at the time of promotion to CLI by giving 30% add-on pay element as per para9 (V) (b)	100+30=130	(BP) would remain same as Running staff is not promoted to CLI in this case, he would continue to progress in his cadre. Thus, no fixation benefit (30%) would be admissible.)
Annual increment (3%)	130+3%=134	130+3%=134	100+3%=103
-do-	134+3%=138	134+3%=138	103+3%=106
-do-	138+3%=142	138+3%=142	106+3%=109
Emoluments for the purpose of calculating pensions	142+30%=185	142+55%=220	109+55%=169
Pension	50% of 185=93	50% of 220=110	50% of 169=85

12. It is to be noted that, it is not in dispute that the applicants who have already retired from the service on VRS in the year 2003, 2006, 2009 have accepted their retiral benefits and settled their pension and have never raised any grievances before they submitted the representations for the first time in the year 2023. It is also to be noted that, just to reiterate the policy decision taken by the Railway Board vide their letter dated 25.11.1992 for the entitlement of the Loco Inspector to 30% add-on pay element on switching over services from running cadre to the supervisory/stationary post and after their retirement from the said post. Further to clarify that, the Loco Inspectors are not classified as running staff even though such

benefits have been granted by the courts to the employees from the Loco Inspector cadre even though they are otherwise not eligible and entitled for 55% pay element for pensionary benefits under the rules.



13. It is also to be noted that, the applicants who are Supervisors have to supervise the duty of the Loco Pilots / Drivers only and as categorically pointed out by the respondents, their duties are not exactly similar to the Running Staff cadre. Therefore, the benefit which is available to the Running Staff (Loco Pilots / Train Managers) under IREM Volume-I Chapter IX under Rule 906, 907 are relevant to adjudicate the issue following with the rules the allowances admissible to the Loco Pilots / Train Managers and Chief Loco Inspectors and the same are extracted as under:

Sl. No.	Running Staff (Loco Pilots/Train Managers) (Authority IREM Vol. I, Chapter 9)	Chief Loco Inspectors Authority:ACS-64, Chapter 15 of IREC Vol II)
1	Working Post	Supervisors Post
2	906 - "Running Allowance" means an allowance ordinarily granted to running staff in terms of and at the rates specified in these rules, and / or modified by the Central Government in the Ministry of Railways (Railway Board), for the performance of duties <u>directly connected with charge of moving trains</u> , and includes a "Kilometrage Allowance". (Different rates for different posts like ALP, Sr. ALP, LP (Goods), LP (Mail and Express), Shunters.	Kilometrage allowance (KMA) - <u>Directly connected with the training and monitoring of loco running staff on foot plate</u> of locomotive cab of moving trains Actual kilometrage on foot plate while employed on foot plate duties as mentioned above. Rate as applicable to Loco Pilot (Mail & Express)

3.	907 – Allowance in lieu of Kilometrage – 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. When such non-running duties are performed by the running staff at outstations, they shall be paid ALK at the following rates for 160Km. ALK allowed to Loco Pilot /Tram Managers in unconditional i.e., based on actual performance.	Allowance in lieu of Kilometrage (ALK) at the rate of 160 kilometress per day while employed on other than foot plate outside their headquarters beyond a radius of 8 km. ALK at the rate of 120 kilometers per day for other than footplate duties performed in the Headquarter or within a radius of 8 km from the Headquarter. ALK allowed to CLIs are conditional in nature as per Rules.
4.	For calculation of Dearness allowance 30% of Pay taken	For calculation of DA, 30% of pay not taken
5.	Night duty Allowance	Eligible
6.	Over Time Allowance	Not eligible
7.	National Holiday Allowance	Eligible
8.	Officiating Allowance	Not eligible
9.	Additional Allowance	Not eligible
10.	Cell Allowance	Not eligible
11.	Leave / Sick Allowance	Not eligible
12.	High Speed Allowance	Not eligible
13.	Dress Allowance	Not eligible
14.	Breach of rest allowance	Not eligible
15.	Non running room allowance	Not eligible
16.	30% of Pay not taken at the time of promotion in Running cadre	30% of pay taken on selection as CLI on promotion
17.	55% of Pay element eligible for pensionary benefits	30% of pay element eligible for pensionary benefit.

The above table shows difference between these two categories, which clearly indicate the difference in the benefits received by the Running Staff and the Chief Loco Inspector i.e. applicants.

14. It is also to be noted that, in as per RBE No.198/92, the problem of filling up the posts of Loco-Running Supervisors on account of drop in emoluments of running staff on coming over as Loco Running Supervisors has been engaging attention of Railway Board for quite some time. This

issue was raised by the recognised labour federations, viz., National Federation of Indian Railwaymen and All India Railwaymen's Federation in the Departmental Council meeting on 19th/20th December, 1989 also.

Consequent upon the second report of the Committee of the Departmental Council (JCM), set up to consider the issue, the Ministry of Railways have taken the certain decisions in consultation with the recognised labour federations viz., NFIR and AIRF, one of which is as follows:



"4. Pay fixation on posting as Power Controller, Crew Controller and Loco Inspector

4.1 The extant provisions of fixation by adding an element of 30% of basic pay in running category would continue to be applicable. However, a running staff initially posted as Power Controller and later shifted as Loco Inspector will get this benefit only once.

5.4. No TA/DA shall be admissible to Loco Inspectors."

It is also to be noted that, the decision under the said letter 25.11.1992 is quite clear and there is no ambiguity.

15. It is also to be noted that, neither the duties of the applicants as a CLI under the supervisory cadre are similar to that of the duties of running staff. None of the orders / judgments relied on by the applicants were discussed in detail about the letter dated 25.11.1992. In fact, though the respondents categorically objected to the relief on the ground that following with the orders passed in the matter of Vinod Kumar Saxena wherein the Notification dated 25.11.1992 has not been assailed and it vires has not been challenged, it still remains in force and would not apply in case of the applicants, who are working as Chief Loco Inspector or Crew Controller or

on Stationary post in the matter of CAT, Principal Bench, New Delhi in

OA/1273/2005 order dated 02.01.2007, which reads thus:



4. Learned counsel would also contend that despite promulgation of Advance Correction Slip No.412-R-II vide notification dated 25.11.1992 by the Railway Board having taken note and cognizance of in Vinod Kumar Saxena's case (supra) against and for grant the add on element of 55% and 75% respectively to post retirees of 1.1.1993 cannot be denied to the applicants who are similarly circumstanced, which would otherwise constitute invidious discrimination and amounts to violation of Article 14 of the Constitution of India.

5. Shri Patel, learned counsel for applicant, on the objection of limitation, would contend that as the cause of action pertains to fixation of pay of post retirees involving grant of retiral benefits at the enhanced rate of pay and, therefore, consequential pay fixation and pensionary benefits would constitute a continuing cause of action on which no limitation would be attracted.

6. Lastly, it is contended that in Vinod Kumar Saxena's case (supra), this plea of limitation has been repelled by this Tribunal which mutatis mutandis apply in the present case as well.

7. On the other hand, Shri Narain Bhatia, learned counsel for respondents states that the aforesaid decisions, cited by the learned counsel for applicants, are per incuriam to the effect that the notification was issued by the President amending the rules of Railways relating to running allowances and the fact of add on element now being introduced on the posts held by the applicants are no more posts in running capacity but are stationary posts. After promulgation of new rules and having opted the same, the pay fixation has been done to the permissible limit of 30% add on element and as such the applicants are not entitled to 55% and 75% respectively add on element for the purpose of fixation of their pension.

8. Shri Bhatia, learned counsel for respondents further stated that claim of the applicants being belated would hit by the limitation under Section 21 of the Administrative Tribunals Act, 1985. Referring to Vinod Kumar Saxena's case (supra), it is stated that as the notification dated 25.11.1992 has not been assailed and its vires has not been challenged, it still remains in force. The same would not apply in the case of the applicants. Accordingly, he prays for dismissal of the present OA, as the earlier decisions, including that of Hon'ble High Court and Hon'ble Supreme Court (supra), have not

taken care of any statutory rules, would not constitute a valid precedent under the doctrine of precedent.

Xxx xxx xxx xxx



14. As regards claim of add on element of 55% and 75% and the amendment regarding grant of add on elements passed by the President dated 25.11.1992, the coordinate Single Bench of this Tribunal in Vinod Kumar Saxena's, case (supra) has taken cognizance of the contentions raised by the respondents with regard to instructions issued on 25.11.1992 and the fact that the applicants therein had been posted against the stationary posts and were not in the category of running staff, which was being overruled, on the ground that as in the case of Kishan Lal (supra) having decided the aforesaid plea and when it was upheld by the Hon'ble High Court of Delhi led to finality by the Apex Court in G.C. Ghosh vs. Union of India, 1991 Supp (2) SCC 497. In the decision of the Tribunal in the case of A. Anrol and others vs. Union of India and others in OA/479/2002 decided on 16.5.2006, wherein it has been ruled that the add on element would still to be continued and it is to be disbursed to the post retirees of 1.1.1993. As in the matter of pensionary benefits, there cannot be any invidious discrimination in the light of the Constitutional Bench decision of the Apex Court in the case of D.S. Nakara vs. Union of India, 1983 SCC (L&S) 145. The decision in Vinod Kumar Saxena's case (supra) has been considered by the Division Bench in OA No.1271/2005 in the case of Shri Yoginder Lall Sharma and others vs. Union of India and Anr., concurring the decision in Vinod Kumar Saxena's case (supra) wherein ruled in respect of post retirees from Railways from 1986-1991 that the decision of the Railways to deny add on element of 55% and 75% is not legally tenable. We have also perused the decision rendered by the Tribunal at Allahabad Bench in OA/479/2002 decided on 16.5.2006 meticulously having back drop of all the relevant instructions issued by the Railway Board and the decision of the Apex Court as well as Hon'ble High Court and the Tribunal, it is ruled that the objection as to applicants being in running posts initially and later on to the stationary posts would only entitle them the permissible limit of 30% add on element in view of their running allowance has been observed to be an invidious discrimination and in such an event, ordered to accord 55% and 75% respectively add on element of running allowance for re-fixation of pension to the applicants therein. The aforesaid decision has also attained finality. In the matter of doctrine of precedent, unless we are compelled or proceeded to disagree with the view, the decision would be binding on us. Being in the light of the doctrine of precedent, as we find that in Vinod Kumar Saxena's case (supra), the aforesaid statutory rules have been taken into consideration and despite the existence on the ground of



discrimination, add on element has been allowed to the retirees of 1.1.1993. We do not find any distinguishing feature to take a different view and in the light of the Constitutional Bench decision in G.C. Ghosh case (supra), applicants being similarly situated cannot be deprived of the same treatment and in such an event, the applicants are entitled to re-fixation of pay by taking into account add on element of 55% and 75% respectively with further revision of their pension and other consequential benefits. This is the only legal way to redress their grievances, the respondents having not followed the same and denied it on the ground of their statutory rules, which would not come in the way of decision of the Tribunal that holds the field.

15. At this stage, learned counsel for respondents has referred to the decision of the Apex Court in the case of Sumangala Naganath vs. Union of India and others, 1999 SCC (L&S)1318, to contend that it is not a wisdom of the court to go into the correctness of the statutory rules. Learned counsel would also rely upon the decision of the High Court in D.D. Producers Association vs. Union of India, 127 (2006) DLT 272, to contend that if there is no unreasonableness in policy, criteria is to be upheld.

16. In the light of the above, when the Wednesbury rules having been taken cognizance of and the action of respondents have not been found reasonable and when decision of the Tribunal has attained finality by the Hon'ble High Court as well as the Hon'ble Supreme Court, it would be an infraction of the doctrine of precedent, if we take a different view. We do not disagree with the decision of the coordinate Bench. In such view of the matter, the contentions raised by the respondents cannot be held to be valid in the eyes of law.

17. In the light of the above, OA is allowed. Respondents are directed to re-fix the pay of the applicants by taking into consideration add on element of 55% and 75% respectively. In such an event, as a consequential benefits, their pension would have to be revised and they would be entitled to all consequential benefits including pay and allowances, which shall be calculated and disbursed to them within three months from the date of receipt of a copy of this order. No costs."

16. It is also to be noted that, without discussing on the policy decision, court have passed the order following with the earlier decision. None of the orders, which were placed by the learned counsel for the applicants neither

discussed about the guidelines under the said letter dated 25.11.1992 or provisions of IREM as discussed by the Hon'ble Supreme Court in the matter of *Union of India and others vs. B. Banerji* which reads thus:

".....3. We have heard the learned counsels for the parties.



4. To appreciate the issues arising in the present appeal, it will be necessary to notice the relevant provisions of the Running Allowance Rules (1981) as embodied in the Indian Railway Establishment Manual – Volume-I (Revised Edition 1989).

5. Rule 902 (2)(iii) defines "running duties" to mean "duties directly connected with the movement of trains and performed by running staff while employed on moving trains or engines including shunting engines".

Sub-rule (iv) of Rule 902 is in the following terms:

"(iv) "Running staff" performing "running duties" shall refer to Railway servants of the categories mentioned below:

Loco	Traffic
(a) Drivers, including Motormen & Rail Motor Drivers but excluding Shunters.	(a) Drivers
(b) Shunters	(b) Assistant Guards
(c) Firemen, including Instructing Firemen, Electric Assistant on Electric Locos and Diesel Assistant Driver Assistant on Diesel Locos.	

"Running Allowance" as defined in sub-rule (v) of Rule 902 is extracted below:

"(v) "Running Allowance" means an allowance ordinarily granted to running staff in terms of and at the rates specified in these rules, and/or modified by the Central Government in the Ministry of Railways (Railway Board), for the performance of duties directly connected with charge of moving trains and includes a "Kilometrage Allowance" and "Allowance in lieu of kilometrage" but excludes special compensatory allowances."

6. Rule 903 which is quoted below makes it clear that 30% of the basic pay of the running staff is required to be treated as representing the pay element in the Running Allowance:

"903. Pay element in Running Allowance:- 30% of the basic pay of the running staff will be treated to be in the nature of pay representing the pay element in the Running Allowance. This pay element would fall under

clause (iii) of Rule 1303 FR-9 21(a) i.e. "emoluments which are specially classed as pay by the President".

7. Rule 905 deals with the types of allowances admissible to running staff and is in the following terms:

"905. Types of Allowances admissible to Running Staff:-Running staff shall be entitled to the following allowances subject to the conditions specified by or under these rules:

(i) Kilometrage Allowance for the performance of running duties, in terms of and at the rates specified in these rules.



(ii) An allowance in lieu of kilometrage (ALK) for the performance of stationary duties such as journeys on transfer, joining time, for attending enquiries or law courts on Railway business, attending departmental inquiries as Defense Counsel or witness, Ambulance classes, volunteer duty in connection with Territorial or other similar Fund and Staff Loans Fund Committees, meeting of Railway Institutes, Welfare and Debt Committees, Staff Benefit Fund and Staff Loan Fund Committees, Staff and Welfare Committees, for attending the meetings of Railway Co-operative Societies in cases where special casual leave is granted for doing so, medical and departmental examinations, participating in recognized athletic contests and tournaments, scouting activities and Lok Sahayak Sena Camp, representing recognized labor organizations, attending periodical meetings with District offices, Heads of Departments and General Managers, attending First-aid classes, undergoing training in carriage sheds and as worker teacher under the Workers' 6 Page 7 Education Scheme attending training schools for refresher and promotion courses, undergoing sterilization operation under Family Planning Scheme appearing in Hindi Examination Guards booked on escort duty of treasure and other insured parcels on trains, Drivers and Firemen when kept spare for a day or two to enable them to examine and clean the engines thoroughly before being deputed to work special trains for VIPs, or any other duties which may be declared in emergencies as qualifying for an allowance in lieu of kilometrage.

(iii) Special Compensatory Allowances

The running staff are eligible for the following compensatory allowances under the circumstances and at the rates specified in these rules:

(a) Allowance in lieu of Running Room facilities.

(b) Breach of rest allowance.

(c) Outstation (Detention) Allowance.

(d) Outstation (Relieving) Allowance.

(e) Accident Allowance.

(iv) An official Allowance when undertaking duties in higher grades of posts open to running staff or in stationary appointments."

8. Rule 907 which deals with allowance in lieu of kilometrage (ALK) is in the following terms:

"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:

Sl.No	Category of Running Staff	New scales of pay	Revised rates of ALK (160 km.) per day w.e.f 1-11-1986*
1.	Mail Driver	1640-2900	45.20
2.	Passenger Driver	1600-2660	45.10
3.	Goods Guard	1350-2200	45.05
4.	First Fireman/ Diesel Asstt/Electric Asstt.	950-1500	30.90
5.	Second Fireman	825-1200	26.25
6.	Shunter	1200-2040	33.05
7.	Mail Guard	1400-2600	36.95
8.	Passenger Guard	1350-2200	36.90
9.	Goods Guard	1200-2040	36.80
10.	Assistant Guard Brakesmen	950-1400	22.00

9. From the provisions of the Running Allowance Rules, extracted above, it is abundantly clear that only a specific category of employees in the Railways like Drivers, Motormen, Firemen, Guards, Assistant Guards etc. who constitute the running staff and such staff who are directly connected with the movement of trains perform running duties. Running Allowance under the Rules is required to be paid only to the running staff who are engaged in the performance of duties directly connected with the movement of trains and such allowance includes kilometrage allowance or allowance in lieu of kilometrage (ALK). While kilometrage allowance is to be paid for performance of actual running duties, the allowance in lieu of kilometrage (ALK) is to be paid to such members of the running staff who are temporarily required to perform stationary duties. The rules also make it clear that 30% of the basic pay of the running staff is required to be treated as representing the Page 9 10 pay element in the Running Allowance. Those members of the running staff who are employed on non-running duties are paid the aforesaid 30% of the basic pay if such non running duties are performed at the headquarters whereas in case such non-running duties are performed by the running staff at outstations they are required to be paid ALK at the rates prescribed by Rule 907(b). It is thus clear that no Running Allowance i.e. either kilometrage allowance or

allowance in lieu of kilometerage is contemplated for any staff, including erstwhile members of the running staff, permanently engaged in performance of stationary duties. Running Allowance of either description is required to be paid only to members of the running staff who are directly engaged in actual movement of trains or such staff who are temporarily assigned stationary duties but who are likely to go back and perform running duties. The respondent does not fall in either of the above two categories.

10. The retention of decategorised Drivers working as Crew Controllers in the original cadre of Drivers by the Railway Board's Circular No.9/98 dated 09.01.1998 and their Page 10 11 entitlement to Running Allowance (ALK) has to be understood in the above context. The aforesaid inclusion, which is wholly fictional, cannot confer any benefit contrary to the express provision of the Running Allowance Rules inasmuch as a decategorised Driver working as a Crew Controller is not a member of the running staff or engaged in performance of running duties as defined by the provisions of Running Allowance Rules. The above position has been made abundantly clear by the Railway Board Circular No.12/2004 dated 14.01.2004, details of which have already been noticed.



11. There is yet another aspect of the matter which would require a mention. Under Rule 903 of the Running Allowance Rules, as noticed above, 30% of the basic pay of the running staff represents the pay element in the Running Allowance. Therefore, in case of a medically decategorised Driver, like the respondent, the said component being a part of his pay has to be protected. The pay drawn by him as a running staff has to be protected. The same apparently has been done as is evident from the rejoinder affidavit of the Union. The above act of the Union ensures compliance with the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which entitles the respondent to receive the pay and service benefits earlier drawn by him. The Running Allowance to which the respondent was entitled while he was a member of the running staff has been protected as a part of his pay in the post of Crew Controller. In such circumstances, any further grant of ALK will not be justified."

It is also to be noted that in the case of a similar set of employees, the coordinate Bench at Allahabad held in favour of the employees and the said order was challenged before the Hon'ble High Court of Allahabad in WP.No.60133/2006. Following with the observation made by the Hon'ble Supreme Court in the matter of *Union of India vs. B. Banerji*, the Hon'ble High Court Writ A.No.60133 of 2006 have considered the issue in detail, and vide its order dated 17.08.2017, set aside the order of the Tribunal, which was passed following with the earlier orders passed in the similarly situated persons in detail." Reads thus:

8. In the background aforesaid, we find that issue of addition of 55% of the basic pay of the running staff to be added and calculated as pensionary benefits has been decided by the Supreme Court in the case of Union of India and others Vs. B. Banerjee (Supra). It has been categorically held as under:-



9. From the provisions of the Running Allowance Rules, extracted above, it is abundantly clear that only a specific category of employees in the Railways like Drivers, Motormen, Firemen, Guards, Assistant Guards etc. who constitute the running staff and such staff who are directly connected with the movement of trains perform running duties. Running Allowance under the Rules is required to be paid only to the running staff who are engaged in the performance of duties directly connected with the movement of trains and such allowance includes kilometrage allowance or allowance in lieu of kilometrage (ALK). While kilometrage allowance is to be paid for performance of actual running duties, the allowance in lieu of kilometrage (ALK) is to be paid to such members of the running staff who are temporarily required to perform stationary duties. The rules also make it clear that 30% of the basic pay of the running staff is required to be treated as representing the pay element in the Running Allowance. Those members of the running staff who are employed on non-running duties are paid the aforesaid 30% of the basic pay if such non running duties are performed at the headquarters whereas in case such non-running duties are performed by the running staff at outstations they are required to be paid ALK at the rates prescribed by Rule 907(b). It is thus clear that no Running Allowance i.e. either kilometrage allowance or allowance in lieu of kilometrage is contemplated for any staff, including erstwhile members of the running staff, permanently engaged in performance of stationary duties. Running Allowance of either description is required to be paid only to members of the running staff who are directly engaged in actual movement of trains or such staff who are temporarily assigned stationary duties but who are likely to go back and perform running duties. The respondent does not fall in either of the above two categories.

10. The retention of decategorised Drivers working as Crew Controllers in the original cadre of Drivers by the Railway Board's Circular No.9/98 dated 09.01.1998 and their entitlement to Running Allowance (ALK) has to be understood in the above context. The aforesaid inclusion, which is wholly fictional, cannot confer any benefit contrary to the express provision of the Running Allowance Rules inasmuch as a decategorised Driver working as a Crew Controller is not a member of the running staff or engaged in performance of running duties as defined by the provisions of Running Allowance Rules. The above position has been made abundantly clear by the Railway Board Circular No.12/2004 dated 14.01.2004, details of which have already been noticed.

11. There is yet another aspect of the matter which would require a mention. Under Rule 903 of the Running Allowance Rules, as noticed above, 30% of the basic pay of the running staff represents the pay element in the Running Allowance. Therefore, in case of medically decategorised Driver, like the respondent, the said component being a part of the pay drawn by him as a running staff has to be protected. The same apparently has been done as is evident from the rejoinder affidavit of the Union. The above act of the appellants also ensures compliance with the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which entitles the respondent to receive the pay and service benefits earlier drawn by him. The Running Allowance to which the respondent was entitled while he was a member of the running staff has been protected as a part of his pay in the post of Crew Controller. In such circumstances, any further grant of ALK will not be justified."

(9) It is undisputed that the respondents had been promoted as stationary staff from the running staff.

(10) In the background of the aforesaid judgment, no running staff including the erstwhile members of the running staff permanently engaged in the performance of stationary duty can be given running allowances. Running allowances are to be paid to the running staff only for performing actual running duty.

It is also to be noted that, even in recent judgment of the Hon'ble Supreme Court in the matter of *Union of India and Ors vs. S.*

Gangadharan ETC. In SLP Nos.9825/9826 of 2018, dated 04.08.2022,

similar issue came up for consideration. While noticing the fact that the

persons on medically decategorization opted for voluntary retirement

instead of opting for re-deployment in alternative stationary post. Thereby,

following with the Railway Board Circular dated 29.11.2016, they were

treated as running staff and have directed to pay element of 55%. In fact, if

they have received the benefit under 30% pay element, the same has to be

deducted while extending the 55% pay element.

It is also to be noted that even though by certain amendments to the

Chapter 15 of Indian Railway Establishment Vol-II, VI Edition 1987, 2nd

reprint edition 2005, dated 03.07.2019, certain allowances have been

extended to the CLI category. However, regular benefit like OTA, which is

admissible to the running Staff, was not made admissible to this category.

It is also to be noted that, as submitted by the learned counsel for the

respondents, the orders passed by the Tribunal are only following with the

criteria of similarly situated employees have attained finality as the

respondents department's SLPs were dismissed in limine. It is also to be

noted that, admittedly, it is settled law on the ground of similarly situated

but while considering the issue, on merit of the matter on law, rules have to

be considered along with delay, latches and the point of fence sitter, when none of the orders relied by the applicants shows that even law or guidelines, under the letter dated 25.11.1992, or provisions have been discussed.



It is also to be noted that, the judgment which is relied by the learned counsel for the applicants passed by the CAT, Mumbai, wherein while recording the submissions of the respondents just reference of judgment of the Hon'ble Supreme Court in the matter of Union of India and others Vs. B.B. Banerji has been made. However, we do not find any discussion or observation in fact, the lower courts are not allowed to make any observation against the Hon'ble Supreme Court orders which are in detail and following with the law. It is also to be noted that, the order of the Hon'ble Supreme Court has been considered by the Hon'ble High Court of Allahabad in WP No.60133/2006 and with detail observations, have turned down the decision of the CAT, Allahabad, which was passed in tune with the earlier orders on the ground of similarly situated.

It is also to be noted that, while considering the issue, the Hon'ble High Court of Madras also has turned down the order of CAT, Chennai, which was passed on the count of similarly situated following with earlier orders on the ground of fence sitters, delay / latches.

18. It is also to be noted that mere representations will not enhance the cause of action on limitation. The claim of the Postal Department

employees, who claim the extension of benefit on the count of similarly situated, has been rejected in the Hon'ble High Court of Judicature at Madras in WP No.1373 of 2021, dated 04.11.2024, wherein law has been discussed on the parity and belated representations and repeated representations which reads as under:



9. Another issue which was raised by the learned counsel for the petitioners was regarding the inordinate delay on the part of the respondents who have approached the Tribunal only because some other employees of their own cadre in Kerala had raised the issue and got a favourable order from the Central Administrative Tribunal, Ernakulam Bench.

11. Now coming to the aspect of delay in claiming the benefit with retrospective effect, it is to be noted that though there is no specified time limit stipulated under any Act, the delay cannot be reasonable. In the present cases, it is seen that the respondents have neither challenged the ban on recruitment which according to them was the main cause of their belated regularisation nor given any representation to the petitioners seeking such relief immediately after their regularisation. It was only in the year 1996 that one of their colleagues had approached the appropriate legal forum to settle his issue of seeking similar benefits as provided for the casual labourers. The present respondents did not approach the employers with any representation even till 2013. It was only thereafter, they followed it up with OAs in Central Administrative Tribunal Chennai Bench in 2014. This aspect of delay and laches is very important. In fact, the Apex Court in the case of Union of India & Others vs. C. Girija & Others, Meena Baskar vs C. Girija & Others, C. Girija vs. Union of India & Others in Civil Appeal Nos. 1577, 1578 of 2019 and Writ Petition (Civil) No.653 of 2015, observed that This Court again in the case of Union of India and Others Vs. MK Sarkar. (2010) 2 SCC 59 on belated representation laid down following, which is extracted below:

"15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/Tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is

passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and latches."



It is also to be noted that, recently, while noticing clear discussion between the two cadres through respondent government's SLPs were dismissed on the ground of delay, as the courts do not come to the rescue of those who sleep over their right, at belated stage, considered that, it is not the case of few employees, rather it effects a large number of employees. After noticing the demand in turn, the public ex-chequer. After noticing the fact that, when there is clear distinction between the employees and after examining whether the work of two cadres, who are actually performing similar duties, not only set aside the orders of the lower courts, which were passed on the ground of delay, but also allowed to the similarly situated or on parity, but also allowed to the State Government to file Review Petitions.

19. It is also to be noted that, the order which is placed before us which was passed recently by the Hon'ble High Court of New Delhi and Hon'ble High Court of Mumbai does not refer to the orders of the Hon'ble Supreme Court passed in the matter of *Union of India and others vs. B. Banerji* which holds the field. Further there is no discussion except that the courts are following the earlier orders and therefore, they are following. Thus, this orders can be said to be per incuriam.

It is also to be noted that, even in the Central Pay recommendation the pay fixation of the running cadre with multiple factor is different from

the Chief Loco Inspector, Crew Controller and all other categories / Stationary posts. It is amply clear that since there is no similarity in the work, there cannot be comparison between the running staff and the staff on Supervisory side like Chief Loco Inspector, Crew Controller or Stationary Post on permanent basis. Even other similarly situated persons have accepted the pay fixation. The said pay recommendation was not raised first time in OA Nos. 656/2023 & batch these being anomaly and for the first time in OA Nos. 656/2023 & batch these being anomaly, which is, in fact, applicants are raising the pay anomaly, which is, in fact, not permissible.

It is also to be noted that, we held that the judgements which is relied does not discuss the merit on law point has to be held as percuriam.

It is also to be noted that the submissions of the applicants counsel on the point that, if different view has been taken by the bench it has to be referred to larger Bench is rejected as Hon'ble Supreme Court in its judgment have discussed on the rules under the IREM and thereafter the Hon'ble High Court also observed and negated the claim of the employees and turned down the order of the Tribunal in the recent judgment on merit.

It is also to be noted that the applicants who are enjoying one 30% add on element benefit while in service within Higher Pay than Running Staff & 30% add on element benefit is not available to one the running staff who are getting 55% add on element after their retirement as running staff considering their hard service same is granted. Therefore, there is no compassion between service of applicants and running staff prior to retirement.

21. It is also to be noted that, while denying the relief to the similarly situated person the Hon'ble Supreme Court in the matter of *Union of India and others vs. K.N. Sivadas & Ors. Civil Appeal No. 5268/97 [@ SLP[C] No. 17422/95], Civil Appeal Nos. 126/96, 124-125/96, 127-130/96 & 131/96]* held that:



“.....Are reserved trained pool employees prior to their absorption as regular employees, entitled to the benefits which have been given to casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme framed under the circular No.45-95/87-SPB I, dated 12.4.1991 issued by the Ministry of Communication, Government of India, Department of Posts and brought into effect from 29.11.1989? The Casual Labourers (Grant of Temporary Status and Regularisation) Scheme sets out that in compliance with the directions of the Hon'ble Supreme Court, a scheme was drawn up by this department in consultation with the Ministries of Law, Finance and Personnel and President had been pleased to approve the scheme. The scheme provided that temporary status would be conferred on casual labourers in employment as on 29.11.1989 and who continue to be currently employed and have rendered continuous service for at least one year. During the year they must have been engaged for a period of 240 days. The scheme gives various benefits to casual labourers which are conferred with effect from 29.11.1989. A casual labourer, therefore, is not given under the scheme any benefits prior to 29.11.1989. Under the scheme temporary status is conferred on casual labourers if they fulfil the various conditions and requirements laid down in the scheme. Clause 7 provides that conferment of temporary status does not automatically imply that the casual labourers would be appointed as regular Group 'D' employees with any fixed time frame. Appointment to Group 'D' vacancies will continue to be done as per the extant recruitment rules, which stipulate preference to eligible ED employees. Therefore, various benefits which go with the conferment of temporary status were given to these casual labourers in view of the fact that their eventual absorption as regular employees was not to be within any fixed time and they were not automatically entitled to become regular employees.

The position of RTPs is quite different. In the first place, the very scheme which constituted RTPs provided for their absorption as regular employees. With this in mind, they were also given the same training as regular employees. They were required in the meantime, to carry out short-term duties or to handle peak hour traffic on an hourly wage basis. However, there was clear assurance in the scheme that they would be accommodated in future vacancies as regular employees in the manner set out in the scheme. We are informed that there was backlog in absorption because of a ban on recruitment during certain years. All the RTP employees have been absorbed as regular employees by 1990. Some of the respondents who are before us have been absorbed much earlier, in the year 1988. Therefore, they are in a much better position than casual



labourers and are now enjoying all the benefits of regular employment. Their claim relates to the period prior to their absorption. The entire period in effect, is either prior to 1988, or in the case of some of the respondents, prior to January 1990. The benefits which they claim are the benefits which have been conferred on casual labourers only after 29.11.1989. The respondents, however, are claiming these benefits for earlier periods (In respect of those respondents who were absorbed in January 1990, their continuation as RTPs after 29.11.1989 is only of two months duration). In other words, RTPs are claiming benefits for a period for which a similar benefit has not been conferred on casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

The Tribunal, in our view, has erred in equating RTPs with casual labourers. The position of these two categories of employees is very different as we have already set out. The Tribunal has also erred in assuming that casual labourers are getting these benefits during the period for which the RTPs are claiming these benefits. RTPs have already obtained the benefit of absorption in regular service because of their own scheme. They, therefore, cannot, on the one hand, avail of their own special scheme and at the same time, claim additional benefits on the basis of what has been given to the casual labourers. This is unwarranted, especially as the period for which they claim these benefits is the period during which such benefits were not available to casual labourers.

Among the various benefits the Tribunal gave to the respondents (RTPs) productivity linked bonus if they had put in, like casual labourer, 240 days of service each year for three years or more on the basis of its judgment in O.A. 612/89 and O.A. 171/89. The appellants have submitted that although the order in these two O.As. was not challenged in appeal, it should not be automatically made applicable to all RTPs. The appellants have relied upon the observation of this Court in *State of Maharashtra v. Digambar* (1995 4 SCC 683) to the effect, inter alia, that non-filing of an appeal before this Court by the State in similar matter, by itself cannot operate as a fetter for this Court in entertaining special leave petitions subsequently filed even if they are considered as relating to similar matter when this Court finds that the relief which was granted was wrong; specially when there is every possibility that such relief may continue to be granted to other complainants who may go before that forum, which may ultimately result in a big financial loss to the State. There is substance in this submission because we find that the reliefs which were granted by the RTPs are wholly unwarranted, looking to the service conditions of RTPs as compared to the service conditions of casual labourers.

In C.A. Nos. 124-125 of 1996 the respondents originally worked as Telegraph Assistants in various Central Telegraph Offices in their reserved trained pool and were absorbed in regular service in 1992. In their department, the scheme of temporary status and regularisation for casual labours has come into effect from 1.10.1989. Their case is no different from the case of other RTPs although undoubtedly, they have been regularised a little later. As stated above, the position of RTPs is very different from the position of casual labourer and the Tribunal could not have equated the two.



In C.A. Nos. 127-130 of 1996 the RTPs who have been regularly absorbed in the year 1988 have been given the benefit of counting their service as RTPs for the purpose of their eligibility to appear for the departmental examination. The relevant rule provides that the candidates "must have put in at least 5 years continuous satisfactory service in one or more eligible cadres" before they can appear for the examination. The eligibility is related to five years service in the cadre. Any service which was rendered prior to regular appointment in the cadre, cannot count for the purpose of this rule because it cannot be considered as service in any eligible cadre. The Tribunal was, therefore, wrong in granting to RTPs the benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination.

In the premises, all these appeals are allowed, the impugned judgments of the Tribunal are set aside and the original application filed before the Tribunal are dismissed. There will, however, be no order as to costs."

While equating the two different services of the two categories, the Tribunal erred in assuming that the employees are entitled to the benefit by virtue of their earlier service. However, when some scheme or rules have been framed without challenging, it should not be automatically made applicable even though it was extended to the other employees by virtue of court orders and the said orders are not challenged or attained finality. The respondent department, by itself cannot operate as a fetter for the court entertaining such claim on the ground that relief which is granted was wrong. Especially, when there is every possibility that such relief may continue to be granted to the other complainants who may go before the forum which may ultimately result in a big financial loss to the State and the court will have to pass orders under the rules. The Hon'ble Supreme Court, following with the law/rules, policy repeatedly held that the relief cannot be extended merely on the ground of similarly situated and each and every matter has to be considered on its own merit.

OA/21/656/2023, 619/2023, 645/2023, 646/2023, 546/2023, 576/2023, 409/2024, 410/2024, 540/2024, 541/2024,
627/2024, 2178/2024 & OA/157/2025

22. In view of the above discussion and law referred to supra, we see no merit in the OAs. Accordingly, the all OAs are dismissed being devoid of merits. No order as to costs.



(SHALINI MISRA)
ADMINISTRATIVE MEMBER

(DR. LATA BASWARAJ PATNE)
JUDICIAL MEMBER

/al/