

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.1501 of 2025**

Yunus Hussain, aged about 65 years, s/o Late Fida Hussain,
village-Babhandih P.S. Barwadih, District-Latehar, Jharkhand
..... Petitioner.

-Versus-

1. Union of India.
2. The Indian Railways through its General Manager, Eastern Central Railway, Hazipur (Bihar).
3. The Preferred Board Personal Officer, Eastern Central Railways, Dhanbad (Jharkhand).
4. Divisional Rail Manager, Eastern Central Railways, Dhanbad.
5. The Senior Divisional Finance Manager, Eastern Central Railways, Dhanbad.

..... Respondents.

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner : Mrs. Khalida Haya Rashmi, Advocate
For the Respondents: Mr. Anil Kumar, ASGI
Mr. Abhijeet Kumar Singh, CGC

Reserved on 22.04.2025 Pronounced On 05.05.2025

Per: Rajesh Shankar, J.

1. The present writ petition has been preferred for quashing the order dated 14.11.2024 passed by Central Administrative Tribunal, Ranchi Circuit Bench, Patna in O.A No.051/0100/2022, whereby the application filed by the petitioner for fixation of his pension and other pensionary benefits as running staff has been rejected. Further prayer has been made for directing the respondent authorities to consider the petitioner medically fit under A-1 category and to provide him pension and all other consequential financial benefits with interest treating him as running staff.
2. The learned counsel for the petitioner submits that the petitioner had joined the post of cleaner in Indian Railways and

subsequently he was posted as Loco Pilot (Mail) at Barwadih, Dhanbad. He was diagnosed with oral cancer and underwent medical treatment for the same from 28.08.2014 to 20.08.2015. Thereafter, he was transferred from North Eastern Railway, Varanasi to East Central Railway, Dhanbad for resumption of normal duties.

3. It is further submitted that a duly constituted medical board examined the petitioner and he was declared fit for service under Category A-1, however, the medical certificate restricted him from getting engaged in train running and train passing duties. A meeting of the screening committee was held on 05.10.2015 and a recommendation was made for his absorption in alternative post as Drafted Crew Controller instead of train running duty and the said recommendation was approved by the competent authority on 06.10.2015. The petitioner assumed charge of his new role as Drafted Crew Controller at Barwadih Crew Lobby on 16.10.2015 and he continued on the said post till he superannuated on 31.01.2017.
4. It is also submitted that the petitioner represented the Respondent Nos. 3 and 4 requesting that he was entitled to all benefits of running staff, however, the respondent authorities wrongfully calculated his pension and other retirement benefits by treating him as non-running category staff on the erroneous premise of medical de- categorization.
5. It is further contended that the petitioner served as a running staff in the department for 40 years, however, at the fag end of

his service he was unjustly de-categorized without providing any prior intimation, order, or notice to that effect. Such action is in violation of the principles of natural justice and shows the lack of empathy of the respondents towards its employees.

6. It is also urged that the petitioner is entitled for addition of running allowance @ 55% of the basic pay to be added for calculation of pensionary benefit, however, the respondent authorities by arbitrarily categorizing him as non-running staff based on medical de-categorization have unlawfully calculated his pensionary benefits on 30% pay element. Moreover, several staff members who are assigned stationary duties are receiving all facilities and benefits accorded to running staff primarily because they are medically fit under Category A-1.
7. It is further submitted that the learned Tribunal has failed to take into consideration that the petitioner was decategorized at the fag end of the retirement only for the purpose of calculation of his retiral benefits. It is submitted that the learned Tribunal has also failed to consider that the petitioner was granted an Accident-Free Award of Rs.82,230/- on 31.01.2017 and such award cannot be given to a medically unfit person.
8. It is also submitted that the order of the learned Tribunal is liable to be set aside since a Drafted Loco Pilot is classified as running staff and a person retiring from this category is entitled to all benefits applicable to running staff.
9. On the contrary, the learned ASGI appearing for the respondent-Union of India submits that the petitioner was not engaged in

running duty after medical de-categorization rather, he was assigned stationary duty and thus his claim for running allowance was rightly rejected by the learned Central Administrative Tribunal, Patna Bench, Patna. The order passed by the learned Tribunal is in consonance with the judgment of the Hon'ble Supreme Court rendered in the case of ***Union of India & Others Vs. B. Banerjee reported in (2013) 10 SCC 265*** and the same needs no interference by this Court.

10. Heard the learned counsel for the parties and perused the materials placed on record.
11. We have perused the impugned order dated 14.11.2024 passed in O.A No. 051/0100/2022 and the relevant part of which is quoted hereinbelow: -

"42. What comes out loud and clear from the above facts and circumstances that the issue is no more res-integra and is covered by law laid down by the Hon'ble Supreme Court in the case of Union of India & Ors Vs. B Banerjee (supra). So also said precedent relied by Hon'ble High Court of Allahabad in the identical case to the case in hand, in the present OA, titled Union of India & Ors. Vs. Amrol and Others, in Writ -A-No 60133 of 2006, decided on 17.08.2017. Their Lordships held that no running staff including erstwhile members of the running staff permanently engaged in the performance of stationary duty can be given running allowances. The running allowances are to be paid to the running staff only for performing actual running duty. The protection of 30 per cent of the basis pay as per the judgment of the Apex Court has already been extended in the case in hand and the respondent claim of addition of running allowance of 55 per cent of the basic pay to be added for calculation of the pensionary benefits of the employee cannot be given to running staff absorbed in alternative post as stationary staff from running staff, permanently engaged in performance of the stationary duty and not performing actual running duty directly connected with movement of trains."

12. We have also gone through the judgment of the Hon'ble Supreme Court rendered in the case of ***B. Banerjee (Supra.)*** which has been relied upon by the learned Tribunal while passing the impugned order dated 14.11.2024. In the said case it has been held 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 the members of 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.

13. In the case in hand, on perusal of the record it appears that after being medically decategorized, a meeting of Screening Committee was held on 05.10.2015 wherein the petitioner also appeared and a recommendation was made for absorption of the petitioner on an alternative post as Drafted Crew Controller which was a duty of stationary nature. The said recommendation of the screening committee was approved on 06.10.2015, which was not challenged by the petitioner, he rather accepted the said decision by joining the post of Drafted Crew Controller on 16.10.2015 and remained on the said post till his retirement on 31.01.2017.
14. It is not the case of the petitioner that after medical de-categorization, he was assigned running duty, rather it is evident that he was absorbed on the post of Drafted Crew Controller and thus in view of the judgement of the Hon'ble Supreme Court rendered in the case of ***B. Banerjee (Supra.)***, the claim of the petitioner is fit to be rejected.
15. The other limb of the argument of the learned counsel for the petitioner is that similarly situated persons who are doing

stationary duty have been given benefits of running staff. It is well settled principle of law that Article 14 of the Constitution is not meant to perpetuate illegality by extending the wrong decisions made in other cases. Article 14 of the Constitution of India does not envisage negative equality, but has only a positive aspect.

16. Thus, even if few other similarly situated persons have been granted certain benefits inadvertently or by mistake, such situation does not confer any legal right on others to get the same benefit as well. If a wrong is committed in an earlier case, it cannot be permitted to be perpetuated. Thus, even if the contention of the learned counsel for the petitioner is accepted to be true, then also the petitioner is not entitled to get any relief from this court in view of the judgment of the Hon'ble Supreme Court rendered in the case of ***B. Banerjee (Supra.)*** wherein it has explicitly been held that the persons who are doing stationary duty have no right to get benefits of running staff.
17. In view of the discussions made hereinabove, we do not find any reason to interfere with the order dated 14.11.2024 passed by the Central Administrative Tribunal, Ranchi Circuit Bench, Patna.
18. The writ petition is, accordingly, dismissed.

(M.S. Ramachandra Rao, C.J.)

(Rajesh Shankar, J.)

Sanjay/AFR