

GRANTS IN LIEU OF TAX ON RAILWAY PASSENGER FARES

7.1 As per paragraph 5(b) of our terms of reference, we are required to suggest changes, if any, to be made in the principles governing the distribution of grants to be made available to States in lieu of the tax under the repealed Railway Passenger Fares Act, 1957.

7.2 Article 269 of the Constitution empowers the Government of India, amongst other things, to levy and collect taxes on railway fares and freights but the net proceeds are to be assigned to the States. The tax was levied for the first time under the Railway Passenger Fares Tax Act, 1957. The Act was repealed with effect from 1st April, 1961. In pursuance of the recommendations of the Railway Convention Committee, the tax was merged with the basic fares. The tax was revived briefly in 1971 at the time of the Bangladesh war and was repealed again on 31st March, 1973. It was agreed that the States should be compensated for the consequential loss of revenue through an ad-hoc grant of Rs.12.50 crores a year in lieu of the tax for the period 1961-62 to 1965-66. The grant was raised to Rs. 16.25 crores per annum from 1966-67 to 1970-71. It was raised again to Rs.23.12 crores for the period 1980-81 to 1983-84 in view of the recommendations contained in the seventh report of the Railway Convention Committee, 1980.

7.3 Earlier Finance Commissions, starting from the third, made recommendations in regard to the principles that should govern the distribution of this grant to the States. The existing principles for distribution of the grant were first laid down by the Seventh Commission :

"If the tax had continued and were to be collected by the States, each State would be competent to collect tax only on railway fares paid within that State, irrespective of the States through which the journeys may be performed. There can be no extra-territorial collection by any State. Railway passenger fares are paid in advance before the commencement of the journey. The tax was collected at source and was a percentage of the fare. It, therefore, appears to us that the most appropriate distribution of the grant in lieu of the tax would be in proportion to the non-suburban passenger earnings from traffic originating in each State." (para 6, page 53, Report of the Seventh Finance Commission)

7.4 The Eighth Commission endorsed the formula adopted by the Seventh Commission. However, on the basis of the recommendations of the seventh report of the Railway Convention Committee (1980), which had recommended that the Finance Commission could look into the question of a further increase in the amount of grant from Rs.23.12 crores, the Eighth Commission chose to examine the issue and recommended that the States should be paid a grant equivalent to 10.7 per cent of the non-suburban passenger earnings in lieu of the tax as that was the tax element in the fare structure when the tax was in force. An amount of Rs.95 crores per annum was recommended for the period 1984-85 to 1988-89. The total amount of the grant was based on total non-suburban passenger earnings during 1981-82. The Ninth Commission, in its first report, endorsed the views of the Eighth Commission and kept the grant at the same level

i.e. Rs.95 crores for 1989-90. In its second report, the Ninth Commission made a departure in regard to the quantum of grant. They took the view that the Railways could not bear the burden of grant based on the 10.7 per cent incidence of non-suburban passenger fares without their finances and performance being seriously affected. At the same time, the Commission was also of the view that the existing amount of Rs. 95 crores was inadequate. Taking all aspects into account the Commission fixed the grant at an amount of Rs.150 crores per annum for the period 1990-95.

7.5 Though our terms of reference do not specifically require us to examine the quantum of the grant, we feel that the entire exercise would be futile if we ignore this aspect. Particularly so, as many States are aggrieved about the inadequacy of the grant and have suggested retaining the grant on the basis of a fixed percentage of the actual earnings from non-suburban fares for the years 1995-2000. Karnataka and Maharashtra have suggested 12 per cent of the non-suburban passenger earnings to be distributed among the States. Tamil Nadu has asked for the quantum of grant to be raised to Rs.750 crores per annum for the period 1995-2000. Haryana has suggested revival of the tax on Railway Passenger Fares. Most of the hill states have suggested adopting population as a criterion for determining the distribution of grants since they do not have railway lines and their people buy tickets from neighbouring States. Manipur and Jammu & Kashmir have suggested an increase in the quantum of the grant by giving additional weightage to the total traffic.

7.6 We have had the benefit of discussion with the Ministry of Railways. The Railways have submitted that they cannot bear the burden of the grant on the basis of the incidence of the tax when it was in force. This would affect their finances and performance seriously. They again brought to our notice that they were subsidising not only passenger but also freight traffic. In fact, the financial impact of the social burden borne by the Railways was estimated to be of the order of Rs.2000 crores in 1993-94. The substantial increase in the cost of operation, the policy of tariff restraint, dwindling budgetary support etc. have also to be taken into account before assessing the Railway's capacity to bear the burden of an increase in the grant in lieu of the tax on passenger fares.

7.7 Having regard to what has been stated above, we propose to consider the following issues:-

- i) Whether the tax on Railway Passenger Fares ought to be revived.
- ii) In case the tax is not revived, the quantum of the grant and the basis of its calculation.
- iii) The principles to be adopted for distribution of the grant in lieu of the tax on Railway Passenger Fares.

7.8 As regards the issue of reviving the tax, we do not consider it necessary to go into this as in our view there is no economic or operational advantage in reviving the tax.

7.9 As for the the quantum of the grant, we are unable to accept the argument of the Railways that they cannot bear the

burden of the grant at this level. We note that it is not the Railways but the Central Government which has all along been bearing most of the compensatory grants. What the Railways pay to the Central Government is a separate issue which is considered periodically by the Railway Convention Committee of Parliament. As such we would not like to go into the operational performance of the Railways and their capacity to contribute more to the general revenues. As far back as the Sixth Commission it had been observed that Finance Commissions were "not concerned here with the larger aspects of the working and financial results of the Railways" (page 23, para 9). We have come to the conclusion that the grant must bear some relation to the incidence of the tax when it was repealed. We agree with the views expressed by most State Governments and that of the Eighth Commission that the grants should be equal to 10.7 per cent of the non-suburban railway passenger earnings. The latest year for which State-wise figures of non-suburban passenger earnings have been made available by the Ministry of Railways is 1992-93. The total non-suburban passenger earnings for that year was Rs.3540.82 crores. We recommend that 10.7 per cent of this i.e. Rs.380.00 crores be paid to the States annually during the period covered by our report.

7.10 As regards the principles of distribution, we are in agreement with the Seventh, Eighth and Ninth Commissions which recommended distribution of the grant in proportion to the non-suburban passenger earnings from traffic originating in each State. The taxable event being the payment of fare, a State should get a grant in relation to the fare paid within its boundary. Considerations like route length etc. appear to be immaterial.

7.11 We have considered the views of States which do not have railway lines. In view of the clear position laid down in article 269 (1)(d) and article 269(2) of the Constitution, we are unable to accept the contention that such States ought to be compensated on the ground that the people of such States purchase tickets from stations falling within the boundaries of other States.

7.12 To sum up we recommend that :

- i) The quantum of the grant in lieu of the Railway Passenger Fares Tax for 1995-2000 should be Rs.380 crores annually.

- ii) The shares of the States be allocated in the same proportion as the average of the non-suburban passenger earnings in each State during the years 1988-89 to 1992-93 bears to the average of the aggregate non-suburban earnings in all States in those years. The relevant data is at Annexure VII.1. On this basis the shares of the States would be as in Table 1 :

Table 1
Grants-in-lieu of Tax on Railway Passenger
Fares : Shares of States 1995-2000

States	Per cent
Andhra Pradesh	8.345
Arunachal Pradesh	0.005
Assam	1.368
Bihar	9.326
Goa	0.194
Gujrat	6.901
Haryana	1.917
Himachal Pradesh	0.108
Jammu & Kashmir	0.728
Karnataka	3.388
Kerala	3.495
Madhya Pradesh	6.882
Maharashtra	17.548
Manipur	0.018
Meghalaya	0.034
Mizoram	0.001
Nagaland	0.145
Orissa	1.715
Punjab	3.280
Rajasthan	4.445
Sikkim	0.010
Tamil Nadu	6.458
Tripura	0.039
Uttar Pradesh	15.568
West Bengal	8.082
TOTAL	100.000