

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.822 OF 2002

New Delhi, this the 4<sup>th</sup> day of November, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Shri Aslam Pravez,  
Khalasi in the canteen of Rly. Catering  
Parliament House Annex, New Delhi.

AND 153 others as mentioned below:-

|     |                      |                    |          |      |
|-----|----------------------|--------------------|----------|------|
| 1.  | Sh. Mahesh Kumar     | Sh. Nandlal        | 01.12.82 | PH * |
| 2.  | Sh. Roop Lal         | Sh. Ram Prakash    | 01.12.82 | PH   |
| 3.  | Sh. Raj Kishor       | Sh. Jai Kishan     | 01.12.82 | PH   |
| 4.  | Sh. Raghuvir Singh   | Sh. Gulab Singh    | 21.09.88 | PH   |
| 5.  | Sh. Mohan Singh      | Sh. Govind Singh   | 05.11.83 | PH   |
| 6.  | Sh. Ram Sawroop      | Sh. Sumiram        | 01.07.83 | PH   |
| 7.  | Sh. K.Satyavel       | Sh. E.Krishnan     | 01.12.82 | PH   |
| 8.  | Sh. Chadeswar Mandal | Sh. Ram Sewak      | 01.12.82 | PH   |
| 9.  | Sh. Ramji Lal        | Sh. Meva Lal       | 01.09.86 | PH   |
| 10. | Sh. Prem Singh       | Sh. Khushal Singh  | 01.12.82 | PH   |
| 11. | Sh. Kuseshwar Rai    | Sh. Ramjulam Rai   | 21.03.84 | PH   |
| 12. | Sh. Pratap Singh     | Sh. Hari Singh     | 01.12.82 | PH   |
| 13. | Sh. Ram Kumar        | Sh. Mouji Ram      | 11.09.91 | PH   |
| 14. | Sh. Ishwar Singh     | Sh. Reshal Singh   | 21.09.86 | PH   |
| 15. | Sh. Ayub Ansari      | Sh. Doman Aansari  | 01.07.83 | PH   |
| 16. | Sh. Om Prakash       | Sh. Hari Singh     | 04.04.90 | PH   |
| 17. | Sh. Prem Vallabh     | Sh. Nanda Vallabha | 01.12.82 | PH   |
| 18. | Sh. Maha Veer        | Sh. Mohan Lal      | 29.09.89 | PH   |
| 19. | Sh. Kuber Singh      | Sh. Kaushal Singh  | 21.06.85 | PH   |
| 20. | Sh. Md. Salim        | Sh. Abdul Hamin    | 01.12.82 | PH   |
| 21. | Sh. Rajender Prasad  | Sh. Budan Prasad   | 06.07.85 | PH   |
| 22. | Sh. Vikram Singh     | Sh. Mukand Singh   | 01.12.82 | PH   |
| 23. | Sh. Bhopal Singh     | Sh. Sher Singh     | 01.12.82 | PH   |
| 24. | Sh. Sawminathan      | Sh. Mottunadar     | 01.12.82 | PH   |

*Ch. Aslam Pravez*

| <u>Sl. No.</u> | <u>Name</u>        | <u>Father Name</u>  | <u>DOB</u> | <u>Unit</u> |
|----------------|--------------------|---------------------|------------|-------------|
| 25.            | Sh. Chandradutt    | Sh. Kishan Nand     | 01.12.82   | PH          |
| 26.            | Sh. Kishan Nand    | Sh. Jai Narayan     | 01.12.82   | PH          |
| 27.            | Sh. Ghan Shyam     | Sh. Munna           | 21.09.86   | PH          |
| 28.            | Sh. Bhuwan Chander | Sh. Anand Vallabh   | 01.10.82   | PH          |
| 29.            | Sh. Shiv Charan    | Sh. Soudan          | 01.12.82   | PH          |
| 30.            | Sh. Nanda Vallabh  | Sh. Devi Dutt       | 01.12.82   | PH          |
| 31.            | Sh. Ashok Kumar    | Sh. Gajraj Singh    | 01.12.82   | PH          |
| 32.            | Sh. Aslam Parvez   | Md. Quddus          | 01.12.82   | PH          |
| 33.            | Smt. Prabha Khanna | Sh. Pramod Khanna   | 01.07.83   | PH          |
| 34.            | Sh. Harman Singh   | Sh. Sant Ram        | 01.12.82   | PH          |
| 35.            | Sn. Darshan Singh  | Sh. Durban Singh    | 13.06.85   | PH          |
| 36.            | Sh. Bhem Singh     | Sh. Fateh Singh     | 21.06.85   | PH          |
| 37.            | Sh. Pawan Kumar    | Sh. Sant Ram        | 01.10.82   | PH          |
| 38.            | Sh. Dhani Ram      | Sh. Moos Ram        | 01.01.84   | PH          |
| 39.            | Sh. Badri Ram      | Sh. Mayadittaram    | 01.12.82   | PH          |
| 40.            | Sh. Govind Singh   | Sh. Dewan Singh     | 01.12.82   | PH          |
| 41.            | Sh. Jai Singh      | Sh. Keser Singh     | 01.12.82   | PH          |
| 42.            | Sh. Tang Vell      | Sh. Chillamuthu     | 01.12.82   | PH          |
| 43.            | Sh. Gyarsa         | Sh. Kalyan          | 15.11.84   | PH          |
| 44.            | Sh. Munnal Lal     | Sh. Tuka Ram        | 01.12.82   | PH          |
| 45.            | Sh. Vachashpati    | Sh. Bamdev          | 01.12.82   | PH          |
| 46.            | Sh. Ravinder Singh | Sh. Udhram Singh    | 06.10.80   | PH          |
| 47.            | Sh. Balam Singh    | Sh. Bhagchand Singh | 01.07.83   | PH          |
| 48.            | Sh. Churamai Thapa | Sh. Man Bahadur     | 26.01.90   | PH          |
| 49.            | Sh. Anand Kumar    | Sh. Ganga Dhar      | 01.09.86   | PH          |
| 50.            | Sh. Govind Singh   | Sh. Jagat Singh     | 01.12.82   | PH          |

*Ch. Nayak*

| SL.<br>No. | Name                  | Father Name         | DOTS     | Unit  |
|------------|-----------------------|---------------------|----------|-------|
| 51.        | Sh. Anand Singh       | Sh. Mohan Singh     | 01.02.83 | PH    |
| 52.        | Sh. Surender Singh    | Sh. Kunwer Singh    | 01.08.83 | PH    |
| 53.        | Sh. Jagdamba Prasad   | Sh. M.N. Joshi      | 17.08.88 | PH    |
| 54.        | Sh. Amar Nath Dogra   | Sh. Jagat Ram       | 01.12.82 | PH    |
| 55.        | Sh. Amar Nath Bhatia  | Sh. Buxi Ram        | 01.12.82 | PH    |
| 56.        | Sh. Mohan Chand Joshi | Sh. Prem Ballabh    | 27.05.86 | PH    |
| 57.        | Sh. Rakesh Kumar      | Sh. R.C. Prajapati  | 01.04.81 | PH    |
| 58.        | Sh. Sunil Dutt        | Sh. Munshi Ram      | 01.07.81 | RO #  |
| 59.        | Sh. Anurag Chaturvedi | Sh. R.N. Chaturvedi | 01.10.82 | RO    |
| 60.        | Sh. Ashok Kumar       | Sh. Mithanlal       | 01.12.82 | RO    |
| 61.        | Sh. Om Dass           | Sh. Sarder Singh    | 02.10.75 | RO    |
| 62.        | Sh. Parmod Kumar      | Sh. Ramcharan       | 01.12.82 | RO    |
| 63.        | Sh. Mahinder Singh    | Sh. Kishan Singh    | 01.12.82 | RO    |
| 64.        | Sh. Ramnarayan        | Sh. Janghi Shah     | 01.12.82 | RO    |
| 65.        | Sh. N.D. Dass         | Sh. Dayal Chand     | 01.07.83 | RO    |
| 66.        | Sh. Sachindanand      | Sh. Ganeshpati      | 01.12.?? | RO    |
| 67.        | Ram Prasad            | Sh. Doulat Ram      | 01.01.83 | RO    |
| 68.        | Sh. Surender Pal      | Sh. Ganga Ram       | 01.12.82 | RO    |
| 69.        | Sh. Mangal Sen        | Sh. Sukhbir Singh   | 09.07.79 | RO    |
| 70.        | Sh. Budh Prakash      | Sh. Tika Ram        | 14.08.91 | RO    |
| 71.        | Sh. Vijay Kumar       | Sh. Shiv Charan     | 01.12.82 | RO    |
| 72.        | Sh. Babu Lal          | Sh. Itrawi Lal      | 01.12.82 | PHA # |
| 73.        | Sh. Bhagat Baladur    | Sh. Nand Lal        | 01.09.86 | PHA   |
| 74.        | Sh. Bal Jewan         | Sh. Jagpal          | 04.10.86 | PHA   |
| 75.        | Sh. Dhyan Chand       | Sh. Gokal Singh     | 01.09.86 | PHA   |

*Chintanay*

| <u>Sl. No.</u> | <u>Name</u>         | <u>Father Name</u> | <u>D.O.B</u> | <u>Unit</u> |
|----------------|---------------------|--------------------|--------------|-------------|
| 76             | Sh. Ganga Ram       | Sh. Sukhu Ram      | 10.06.92     | PHA         |
| 77.            | Sh. Gokul Chander   | Sh. Nand Kishore   | 01.09.84     | PHA         |
| 78.            | Sh. Iqubal Singh    | Sh. Joginder Singh | 10.06.92     | PHA         |
| 79.            | Sh. Jagat Singh     | Sh. Jeet Singh     | 01.02.83     | PHA         |
| 80.            | Sh. Jai Prakash     | Sh. Shiv Pujan     | 16.09.91     | PHA         |
| 81.            | Sh. Jaswant Singh   | Sh. Dan Singh      | 01.09.86     | PHA         |
| 82.            | Sh. Lalan Singh     | Sh. Nardev Singh   | 07.09.81     | PHA         |
| 83.            | Sh. Lekh Raj        | Sh. Longu Ram      | 01.12.82     | PHA         |
| 84.            | Sh. Mohan Singh     | Sh. Boota Singh    | 01.12.82     | PHA         |
| 85.            | Sh. Mukesh Kumar    | Sh. Jagdish        | 07.06.85     | PHA         |
| 86.            | Sh. Murari Singh    | Sh. Gokal Chand    | 06.09.85     | PHA         |
| 87.            | Sh. Om Prakash      | Late Sh. Deshraj   | 01.07.83     | PHA         |
| 88.            | Sh. Ram Niwas       | Sh. Surat Singh    | 14.09.91     | PHA         |
| 89.            | Sh. Ram Prasad      | Sh. Mohan Lal      | 24.01.86     | PHA         |
| 90.            | Sh. Ram Ujjagar     | Sh. Ram Bali       | 23.06.90     | PHA         |
| 91.            | Sh. Rasheed Pal     | Sh. Charan Singh   | 15.1.87      | PHA         |
| 92.            | Sh. Rati Pal        | Sh. Ram Dullary    | 05.07.82     | PHA         |
| 93.            | Sh. Sohan Singh     | Sh. Surender Singh | 01.09.86     | PHA         |
| 94.            | Sh. Vir Pal         | Sh. Chottey Lal    | 12.06.89     | PHA         |
| 95.            | Smt. Taranjeet Kaur | Sh. Surender Singh | 01.12.82     | PHA         |
| 96.            | Mrs. Usha Bist      | Sh. S.S. Bist      | 01.07.83     | PHA         |
| 97.            | Sh. Badre Alam      | Sh. Wahid          | 01.07.83     | PHA         |
| 98.            | Sh. Chandrika       | Sh. Raj Kumar      | 01.01.84     | PHA         |
| 99.            | Sh. Gulab Chand     | Sh. Nathu Ram      |              | PHA         |
| 100.           | Sh. Keser Singh     | Sh. Trilok Singh   | 01.12.82     | PHA         |
| 101.           | Sh. Pradeep Kumar   | Sh. Vijay Bahadur  | 01.12.82     | PHA         |
| 102.           | Sh. Davinder Singh  | Sh. Kundan Singh   | 13.04.95     | PHA         |
| 103.           | Sh. Netra F.I       | Sh. Babu Singh     | 13.04.95     | PHA         |
| 104.           | Sh. Prem Bahadur    | Sh. Tek Bahadur    | 01.08.95     | PHA         |
| 105.           | Sh. Shyam Singh     | Sh. Chop Singh     | 13.04.95     | PHA         |

*Chittarpur*

| SL No. | Name                | Father Name        | DOTS     | Unit |
|--------|---------------------|--------------------|----------|------|
| 106.   | Sh. Rajender Prasad | Late Sh. Shyam Lal | 01.12.82 | PMO  |
| 107.   | Sh. Ravi Kumar      | Sh. Murai Mutto    | 26.12.80 | PMO  |
| 108.   | Sh. Sant Lal        | Sh. Ganpat Dass    | 01.07.83 | PMO  |
| 109.   | Sh. Jagat Singh     | Sh. Hardhan Singh  | 01.07.83 | PMO  |
| 110.   | Sh. Bhawan Singh    | Sh. Plem Singh     | 01.07.83 | PMO  |
| 111.   | Sh. Pari Ram        | Sh. Tila Ram       | 01.09.86 | PMO  |
| 112.   | Sh. Satbir Singh    | Late Prabhu Dayal  | 10.06.92 | PMO  |
| 113.   | Sh. Ranjeet Singh   | Sh. Sant Ram       | 03.10.85 | PMO  |
| 114.   | Sh. Sadho Singh     | Sh. Prem Singh     | 01.09.84 | PMO  |
| 115.   | Sh. Mohd. Naseem    | Sh. Amerul Haq     | 01.08.83 | PMO  |
| 116.   | Sh. Jai Prakash     | Sh. Kanhya Lal     | 07.06.85 | PMO  |
| 117.   | Sh. Surjeet Singh   | Sh. Raghuber Singh | 01.07.83 | PMO  |
| 118.   | Sh. Umesh Chand     | Sh. K.R. Paliwal   | 23.08.85 | PMO  |
| 119.   | Sh. Ghyam Shyam     | Sh. Parmanand      | 01.12.82 | PMO  |
| 120.   | Sh. Udai Singh      | Sh. Narayan Singh  | 01.09.84 | PMO  |
| 121.   | Sh. Sunil Kumar     | Late Mhasha Nand   | 13.06.85 | PMO  |
| 122.   | Sh. Sarwan Kumar    | Sh. Dhandu Ram     | 01.09.86 | PMO  |
| 123.   | Sh. Kishan Nand     | Late Sh. Uday Nand | 02.06.89 | PMO  |
| 124.   | Smt. Indu           | Sh. B.M. Vij       | 01.12.82 | PMO  |
| 125.   | Sh. Lal Jha         | Sh. Kant Jha       | 01.12.82 | PMO  |
| 126.   | Sh. Liyaqut Ali     | Sh. Mahmood Ali    | 01.12.82 | PMO  |

*Chungathu*

(6)

Father NameDOTSUnit

94

| <u>No.</u> | <u>Name</u>           | <u>Father Name</u> | <u>DOTS</u> | <u>Unit</u> |
|------------|-----------------------|--------------------|-------------|-------------|
| 127.       | Sh. Raj Kumar         | Sh. Ganga Ram      | 01.09.86    | Rly. Board  |
| 128.       | Sh. Prabhu Dayal      | Sh. Sewa Ram       | 01.12.82    | Rly. Board  |
| 129.       | Sh. Sunder Pal        | Sh. Khajan Singh   | 01.12.82    | Rly. Board  |
| 130.       | Sh. Hari Kishan       | Sh. Rajgiri        | 09.09.90    | Rly. Board  |
| 131.       | Sh. Ramesh Chand Koli | Sh. P. Ram Koli    | 01.09.86    | Rly. Board  |
| 132.       | Sh. Sukhdev Singh     | Sh. Trilok Singh   | 10.05.84    | Rly. Board  |
| 133.       | Sh. Devi Dutt         | Sh. Prem Vallabh   | 01.01.86    | Rly. Board  |
| 134.       | Sh. Md. Khartib       | Sh. Habib          | 01.12.84    | Rly. Board  |
| 135.       | Sh. Pratap Singh      | Sh. Bhopal Singh   | 01.02.83    | Rly. Board  |
| 136.       | Sh. Nanda Lal         | Sh. Manu Metho     | 14.07.84    | Rly. Board  |
| 137.       | Sh. Satender Singh    | Sh. Kanchan Singh  | 13.04.95    | Rly. Board  |
| 138.       | Sh. Dev Raj Singh     | Sh. Sohan Singh    | 01.12.82    | N.A. *      |
| 139.       | Sh. Bal Kishan Joshi  | Sh. Ghanna Nand    | 01.10.82    | N.A.        |
| 140.       | Sh. Girish Anand      | Sh. S.K. Anand     | 01.08.85    | N.A.        |
| 141.       | Sh. Sutti Dev         | Sh. Joop Raj Singh | 01.12.82    | N.A.        |
| 142.       | Sh. Prem Singh        | Sh. Douru Ram      | 01.12.82    | N.A.        |
| 143.       | Sh. Sree Ram          | Sh. Muneshwer Pd.  | 01.06.89    | N.A.        |
| 144.       | Sh. Irshad Ahmed      | Sh. Md. Yunus      | 01.10.82    | N.A.        |
| 145.       | Sh. Om Prakash        | Sh. Munshi Ram     | 01.12.82    | N.A.        |
| 146.       | Sh. Atwal Singh       | Sh. Munshi Ram     | 01.12.82    | N.A.        |
| 147.       | Sh. Karam Chand       | Sh. Gorakh Ram     | 01.01.83    | N.A.        |
| 148.       | Sh. Mal Chand         | Sh. Rai Chand      | 01.01.83    | N.A.        |
| 149.       | Sh. Nain Singh        | Sh. Kishan Chand   | 01.12.82    | N.A.        |
| 150.       | Sh. Lalit Prasad      | Sh. Maha Nand      | 01.12.82    | N.A.        |
| 151.       | Sh. Pratap Singh      | Sh. Ratan Singh    | 01.08.84    | N.A.        |
| 152.       | Sh. Raghu Vir Singh   | Sh. Mool Chand     | 17.06.89    | N.A.        |
| 153.       | Sh. Tulsi Ram         | Sh. Tirath Pd.     | 19.07.89    | N.A.        |

\*\*\*Applicants

(By Advocate : Shri B.S. Mainee)

CIN Brijgaurav

Union of India

Through:

1. The Secretary,  
Ministry of Railways,  
Railway Board,  
New Delhi.
2. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. The Senior Commercial Manager (Catering)  
Parliament House,  
Catering Complex,  
New Delhi.

.....Respondents.

(By Advocate : Shri R.L. Dhawan)

### ORDER

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicants seeking a direction for their regularisation and assignment of seniority from the date they had completed three years of service. The applicants have also claimed the benefits of Assured Career Progression Scheme (for short 'ACP Scheme') after considering the period of regularisation from the date prior to their grant of temporary status.

2. It is stated that the applicants were engaged in the year 1981-82. They were granted temporary status after screening in the year 1991-1992. The learned counsel of the applicants stated that as per OM dated 25.7.2000 (Annexure A/3), the benefit of ACP Scheme was extended to canteen employees. Learned counsel invited attention to a letter dated 3.12.1999 of Ministry of Culture, Youth Affairs and Sport, Department of Culture wherein

*C. Bhagwan*

a clarification was sought regarding application of ACP Scheme in the case of Shri Atma Ram Sharma working as Coupon Clerk in the Tiffin Room. It was stated that the employees of Tiffin Rooms were treated as Govt. employees w.e.f.1.10.1991. The benefit of ACP Scheme was given on completion of 12 years of service. Therefore, a question was raised whether the period of 12 years for grant of financial upgradation was to be counted from the date of appointment or from 1.10.1991. The learned counsel further stated that the Department of Personnel, Public Grievance and Pensions gave their advice and accordingly, Shri Atma Ram Sharma was granted the benefit of ACP Scheme w.e.f.9.8.1999 vide Ministry of Culture, Youth Affairs & Sports, Department of Culture's letter dated March 2000 (Annexure P-VIII). Learned counsel also invited attention to the reply filed by the respondents wherein seniority list of 1995 has been placed by the respondents as Annexure R-8. It is stated that in this seniority list of Catering Khalasi in the grade of Rs.775-1025 (RPS), the date of appointment of the applicant No.1 has been shown as 1.12.1982 at serial No.42 of the seniority list. The learned counsel stated that the applicant No.1 was appointed in 1982. It has correctly been shown as date of appointment. If that is so, the applicant No.1 should have been regularised with effect from the date of his joining the office of respondents, he should also be given due seniority and consequential benefits like grant of ACP Scheme benefits.

3. The learned counsel also invited attention to the representations filed by the applicants as per letter dated 1.8.2001 to ventilate their grievances but no decision has been communicated by the respondents. Referring to the decision of the Hon'ble Supreme Court in the case of State of Haryana &

*Chancery*

Others, etc. etc. Vs. Piara Singh and Others, etc. etc. 1992 (3) AISLJ 34, it was stated that employees working fairly for a long spell should be regularised, if found suitable. The learned counsel of the applicants also referred to a case of screening held on 23.8.1990 wherein seniority and regularisation was given from 1984. He, therefore, stated that the applicants should have also been given regularisation from the date of their joining.

4. Regarding objection of respondents that there had been delay in filing this Original Application and the same deserves to be rejected on account of being barred by limitation. reference has been placed on the decision of the Hon'ble Supreme Court in the case of State of Bihar & Ors. Vs. Kameshwar Prasad Singh and Ors., 2001 (1) SLJ SC 76. It is stated that the courts should exercise their powers to condone the delay to advance interest of justice. It is claimed that thought there is no such delay but still misc. application bearing MA No.673/2002 for condonation of delay has been filed as a precautionary measure. The reliefs being admissible to the applicants and the same should be given by the respondents.

5. The learned counsel of the respondents raised several preliminary objections. According to the learned counsel of the respondents, first claim of the applicants relates to regularisation. The applicants have been regularised by order dated 16.3.1992 (Annexure R-II) with effect from the date of screening held on 2.11.1991 and 16.12.1991. Therefore, if the applicants were aggrieved by that order and claim antedating of their regularisation, they could have pursued their remedy within a period of limitation. In that case, cause of action arose in the year 1992 and the present Original Application filed on

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21.3.2002, as such the Original Application deserves to be dismissed as barred by limitation.

6. The respondents have also taken a preliminary objection regarding claim of seniority on the basis of 1995 seniority list. It is stated that remarks column contains a note that the Khalasis as per order dated 6.3.1992 have been placed from Item No.27 to Item No.132. Therefore, this seniority list has to be read with that order of 16.3.1992 giving regularisation on the basis of screening test. In any case, the seniority list of 1995 has not been challenged. Even though there was stipulation that objection could be filed and the applicants have not filed any objection. The learned counsel vehemently opposed that the so-called representation dated 1.8.2001 is a forged one as the same has not been received in the office of respondents as alleged by the applicants. However, as an alternative, it was also stated that belated representation does not extend the period of limitation.

7. Learned counsel of the respondents has also sought dismissal of the present Original Application on the ground of delay. In support of his contention reliance has been placed on the decision of this Tribunal in the case of *Smt. Sunita Raswant and Ors. Vs. Union of India and Ors.* in OA No.1175/2001 decided on 12.3.2003.

8. The learned counsel of the respondents has also raised a preliminary objection regarding dismissal of the Original Application regarding claim of multiple reliefs in one Original Application. According to him, the applicants are not only asking for regularisation but also for seniority and grant of ACP Scheme benefits. All these are separate and distinct cause of actions. All of

*Chintan*

them are not consequential to each other and as such the Original Application deserves to be dismissed on this ground also.

9. The arguments of learned counsel of the parties have been taken into consideration and the materials available on record have been perused.

10. There is no dispute that the applicants were screened and granted temporary status as per order dated 16.3.1992 (Annexure R-II). Unless screening was done, they cannot be given antedating seniority and regularisation. The reliance placed by the learned counsel on aforesaid case of Atma Ram Sharma working in the Ministry of Culture, Youth Affairs and Sport, Department of Culture is misplaced. That letter dated 3.12.1999 merely states that the employees of the department of Tiffin Rooms were treated as Govt. employees w.e.f.1.10.1991, ~~whether~~ <sup>as per</sup> whether such employees were regularly selected as per Recruitment Rules ~~on the date~~ as per <sup>stated in</sup> rules or they were merely casual labours on daily wages is not ~~satisfied~~ <sup>satisfied</sup>. Learned counsel has also stated that one Shri Atma Ram Sharma was granted ACP Scheme benefit w.c.f.9.8.1999 on the advice and clarification received from the Department of Personal, Public Grievances and Pension. However, what was the advice and clarification has not been placed by the learned counsel for consideration of this Tribunal. On the other hand, learned counsel of respondents has placed a copy of dated Nil.7.2002 (Annexure R-5) for perusal of this Tribunal, which is a clarification sought by the Railway Board on the ACP Scheme. The nature of problem quantified, required clarification and the clarification given by the Railway Board in this connection is as follows:-

*Copy*

“The employees such as casual employee including those with temporary status are not eligible for financial upgradation under the ACPs. Only regular service i.e. eligibility service counted for regular promotion will be reckoned for ACPs. Authority para 3.1 and 3.2 of Rly. Board’s letter No.PC-V/9/1/1/1 dated 1.10.99 and PC-V/2001/1/15/NR dated 31.5.2002.”

11. In view of this clarification, there is no doubt that unless an employee is placed in regular service, the period for counting ACP Scheme benefits does not commence. In this case, the applicants were casual labourers on daily wage basis and their services were regularised after screening test only by order dated 16.3.1992. Therefore, there is no question of their being regular Govt. employees before the date of their regularisation for which the screening was held on 2.11.1991 and 16.12.1991. The learned counsel of the applicants has also referred to antedating of regularisation in the case of Group ‘C’ employees as per order dated 13.8.1990. The facts of that case will not apply in the case of the casual labourers, who are not regularised. Therefore, on the merits of the case, the applicants were not eligible for grant of ACP Scheme benefit as per OM dated 9.8.1999 as they had not completed 12 years of regular service. They cannot get benefit of any antedating of seniority and regularisation also. Even though there has been dispute about filing of representation by the applicants on 1.8.2001, the same ~~does~~ <sup>is</sup> not very relevant inasmuch as the applicants cannot get the period of limitation extended by filing belated representation. Apparently the cause of action, if any, arose some time in the year 1992 or alternatively in the year 1995 (when the seniority list was circulated). Therefore, any representation dated 1.8.2001 filed on 3.8.2001 is belated and does not extend the period of limitation, as has been held by the Hon’ble Supreme Court in the case of S.S. Rathore Vs. State of M.P. &

*Chitravati*

Others, (1989) 4 SCC 582. The preliminary objection of the respondents regarding delay is well founded. However, there is no relief due to the applicants on merits also. Therefore, this Original Application deserves to be rejected on merits also.

12. In the result, for the reasons stated in the preceding paragraphs, this Original Application is dismissed on both points, i.e., on the point of limitation as well as on merits.

  
(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

/ravi/