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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.504/2001
M.A.NO.462/2001

New Delhi, this the 08th day of February 2002

Hon'ble Shri S.A.T. Rizvi, Member (A)

1. K.C.Sharma
Late Pt. Uma Dviji Sharma
Guard 'A'
H-52, Sanjay Nagar,
Ghaziabad, UP
2. B.D.Malhotra
Ram Lal Mohtra
Guard 'A'
D-10/117, Sec-VII
Rohini, Delhi.
3. Sat Pal
Deena Nath Malhotra
Driver 'A' Spl.
6-D Surya Aptt. Sector 13,
Plot No.21, Rohini
4. R.N.Sharma
Late Pt. Ram Parkash
Guard 'A' DEE
Kotla House, Mandir Marg
Sec-5, Gurgaon (Haryana)
5. Sh. Medh Singh
Late Vijay Singh
Guard 'A'
PO-V-Bhondsi
Guargaoon (Haryana)
6. Sh. Manohar Lal
Late Soni Ram
Guard 'A' Spl.
C/O S.S.Rewari
7. H.H.Swarup Sharma
S/o Shri Balmukand Sharma
Guard 'A' Spl.
99, Nai Abadi, Rly. Road
Rewari.
8. Chandgilal Sharma
Pt. Daulat Ram
Guard 'A' Spl.
217 Nai Abadi Rewari
9. Balbir Singh Sharma
Late Pt. Parmananand
Guard 'A' Spl.
439, Shiv Colony, Rewari
10. Karori Lal,
S/O Late Shri Shadi Ram
Shunter 'B'
Vill ~Sardi thet, P.O Raliayad
Distt. Rewari.

(By Advocate: Shri B.S.Mainee)

..Applicants

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Versus

Union of India Through

1. The Secretary
Ministry of Railways
Railway Board
Rail Bhawan
New Delhi
2. The General Manager
Northern Railway
Baroda House
New Delhi
3. The Divisional Railway Manager
Northern Railway
Bikaner
4. The Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi
5. The F.A. & C.A.O.
Northern Railway
Baroda House
New Delhi

... Respondents

(By Advocates: Shri B.S.Jain & Shri R.L.Dhawan)

O R D E R

10 applicants respectively working as Guard, Driver and Shunter under the respondents pray for a direction to the respondents to pay them interest @ 12% p.a. from 16.12.1993 upto the date of actual payment in respect of the arrears of pensionary benefits already paid to them.

2. The facts of the present case briefly stated are that the applicants, who were members of running staff and who retired from service in different years between 1980 and 1988, were entitled to pension and other retirement benefits by taking into account the running allowance at a rate not exceeding 75% of their pay. The respondents instead took into account the running allowance at the rate not exceeding 55% on the basis of the Railway Board's

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decision dated 5.12.1988 made applicable retrospectively w.e.f. 1.4.1979. Aggrieved by the aforesaid position, the applicants together with 61 other members of the running staff approached this Tribunal through OA-774/94 seeking a direction to the respondents to re-compute the applicants' retirement benefits with reference to the formula based on 75% of the running allowance. The applicants had therein challenged the aforesaid decision of the Railway Board dated 5.12.1988 by taking the plea that the same could not be applied retrospectively. Unfortunately for them, the aforesaid OA was dismissed as time barred. Subsequently, they approached the Hon'ble Supreme Court by filing a SLP which was decided by that Court on 25.7.1997 (A-2). The operative portion of the aforesaid judgement reads as under:-

Having regard to the facts and circumstances of the case, we are of the view that this was a fit case in which the Tribunal should have condoned the delay in the filing of the application and the appellants should have been given relief in the same terms as was granted by the Full Bench of the Tribunal. The appeal is, therefore, allowed, the impugned judgement of the Tribunal is set aside and the delay in filing of OA No.774 of 1994 is condoned and the said application is allowed. The appellants would be entitled to the same relief in the matter of pension as has been granted by the Full Bench of the Tribunal in its judgement dated December 16, 1993 in OA Nos. 395-403 of 1993 and connected matters."

(emphasis supplied)

3. Since the aforesaid controversial notification issued by the Railway Board on 5.12.1988 had remained under litigation in the various Benches of this Tribunal and certain conflicting decisions had been made, the matter was

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referred to the Full Bench in the case of C.R. Rangadhamaiyah & Ors. Versus Chairman, Railway Board & Ors. The F.B. decided the matter on 16.12.1993. It is this same judgement of the F.B. which has been referred to in the aforesaid judgement made by the Supreme Court. For the sake of convenience, the directions issued by the F.B. in C.R. Rangadhamaiyah's case (supra) are reproduced below:-

"(iii) These directions shall be carried out within a period of three months from the date of receipt of the copy of this order.

(iv) If the amounts due to the applicants/Legal Representatives are not paid within the prescribed time, the amounts due shall be paid with interest at 12% per annum from the date of this order till the date of payment."

4. For the purpose of the present OA, the direction No. (iv) above is relevant. The same provides for payment of interest @ 12% p.a. from 16.12.1993 unless the amounts due to the applicants before the F.B. were paid within three months from the date of receipt of a copy of the aforesaid order. It is to be noted that the correctness of the aforesaid decision of the F.B. of this Tribunal was affirmed by the Supreme Court in Chairman, Railway Board & Ors. Versus C.R. Rangadhamaiyah & Ors. (Civil Appeals Nos. 4174-4182/95 and connected matters) decided on the same day, namely, on 25.7.1997. This was a separate decision different from the earlier decision of the same date which has been referred to in an earlier paragraph.

5. The aforesaid judgements rendered by the Supreme Court led to the issuance of Railway Board's orders dated

filed by the Railway Administration against the order dated 16.12.1993 of the Full Bench of CAT/Bangalore and other identical judgements of various CATs, the direction relating to payment of interest as contained in Hon'ble CAT Larger Bench judgement dated 16.12.1993, has since been examined in consultation with the Associate Finance of this Ministry and it has further been decided that interest @ 12% on the failing due may be allowed to all the applicants from the date of judgement(s) the respective CATs."

The aforesaid provision makes it clear that interest will have to be paid @ 12% p.a. on arrears falling due to all the applicants from the dates of judgement in the respective CAT cases. The implication is that interest will be paid at the aforesaid rate only to those who have succeeded before the Benches of this Tribunal and, in their cases, interest due will be paid after calculating the same from the dates of judgements rendered by respective CAT Benches.

7. The learned counsel appearing on behalf of the respondents has submitted that since the present applicants had lost their case before the C.A.T. which had dismissed their OA as time barred on 25.7.1997, the interest could not be paid to them at all. He has also submitted that the present OA suffers from the problem of limitation and lack of territorial jurisdiction. Furthermore, according to him, of the 10 applicants in the present OA, 9 have approached the Tribunal in the present OA without first exhausting the departmental remedies available to them. The applicants in the present OA, according to him, also could not join in one common application which is not maintainable under Rule 4 (5) of C.A.T. (Procedure) Rules,

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8. Insofar as the question of interest is concerned, the same, I find, has been made payable by Railway Board's circular letter of 17.4.1998 issued in the wake of the Supreme Court's judgement dated 25.7.1997 which had affirmed the FB's decision of 16.12.1993. A careful reading of the aforesaid circular would show that the Railway Board have decided that interest @ 12% p.a. be paid to all those applicants who had obtained favourable judgements from the C.A.T. in the wake of the FB's judgement of 16.12.1993. Now, it is clear that the applicants herein had lost their case before the C.A.T. However, in the appeal filed by them before the Supreme Court, the said Court has decided the matter in their favour. The operative portion of the aforesaid judgement has already been reproduced in paragraph 2 above. The learned counsel appearing on behalf of the respondents has, by relying on the last sentence of the aforesaid operative portion, submitted that the applicants herein would be entitled to the same relief which was granted by the F.B. only in the matter of pension. According to him, no other relief can be granted to the applicants herein by virtue of the aforesaid order passed by the Supreme Court on 25.7.1997 in the appeal filed by the applicants. I have considered this contention carefully and find that in order to understand the true import of the Supreme Court's aforesaid order, it would be necessary to read the entire operative portion reproduced in para 2 as a whole. The Apex Court has clearly stated therein that the applicants herein should have been given relief (by the C.A.T.) in the same terms in which it had been granted by the F.B. Having said that, the Apex Court could not intend giving

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benefit/relief to the applicants herein, different from or other than what had been given by the F.B. to the applicants before it. Thus, a harmonious interpretation of the Supreme Court's aforesaid judgement takes me to the conclusion that the Apex Court has allowed the same relief to the applicants herein as had been allowed by the F.B. to the applicants before it.

9. This will be so for another reason also. Admittedly, the benefit of interest payment @ 12% p.e. has been granted by the Railway Board by their aforesaid circular dated 17.4.1998 to all those who have been favoured by the C.A.T. In the circumstances, it will be futile to argue that those favoured by the Supreme Court will not be given that very relief merely because the Railway Board's circular dated 17.4.1998 does not specifically say so. In my view, it will be perfectly in order to give a liberal and logical interpretation to the aforesaid circular, at any rate, to this limited extent that the same permits payment of interest also to those who have been favoured by the Supreme Court. The applicants herein, though not favoured by the C.A.T., were clearly favoured by the Supreme Court and, therefore, the applicants herein will have to be included as beneficiaries of the Railway Board's aforesaid circular of 17.4.1998.

10. The only question to be decided is whether the applicants herein will be entitled to the payment of interest @ 12% p.a. after the expiry of three months from 16.12.1993 as laid down in the FB's judgement or else the relevant date in their case would be 25.7.1997, on which

date they got a favourable order from the Supreme Court. On a proper consideration of the matter, I find that the aforesaid relief of interest payment should be made applicable only with reference to the date on which a favourable order was passed. That date, in the case of the applicants herein, is 25.7.1997 when their appeal was allowed by the Supreme Court. The applicants herein are accordingly entitled to payment of interest @ 12% p.a. after the expiry of three months from 25.7.1997.

11. The issue of limitation raised on behalf of the respondents can be answered in part by having recourse to the appellate order passed by the Supreme Court on 25.7.1997 in favour of the applicants herein. The Supreme Court having finally decided the matter in favour of the applicants herein as above on 25.7.1997, the respondents were, in my view, duty bound to act in accordance with the Court's order without delay and grant the entire relief to them including the relief of interest payment. That was not done and instead the respondents processed the matter for a policy decision to be taken consistently with the Supreme Court's order, and finally issued a circular letter dated 14.10.1997 which has been followed up by the aforesaid circular letter of 17.4.1998. Because some time was taken in issuing the aforesaid circulars, it cannot be argued that the relief of interest payment will be made applicable from a date different from the date calculated in tune with the order of the Supreme court. It needs to be reiterated, therefore, that the relief of interest payment will be granted to the applicants herein, as already stated, from a date three months after the date

(25.7.1997) of the Supreme Court's decision. In any case, having issued the aforesaid circular, the respondents should have proceeded entirely on their own to grant the relief of interest payment to the applicants herein as well as to all others similarly placed without necessarily waiting for them to file representations in the matter. In this view of the matter, the contention raised on behalf of the respondents that some of the applicants herein had not filed representations would appear to make little sense. It is a different matter altogether that such representations were also filed as asserted on behalf of the applicants in the rejoinder filed by one of them, which fact is not seriously disputed by the respondents, though the propriety of filing of copies of such representations by only one of them without having authority to do so, has been questioned on procedural ground.

12. The aforesaid findings incidentally take care of the issues raised on behalf of the respondents with regard to limitation as well as exhaustion of departmental remedies before approaching the Tribunal. The contentions raised in the event stand negatived.

13. In regard to the issue of maintainability of a joint application, the respondents cannot find any support in the relevant provisions made in the C.A.T. (Procedure) Rules, 1987. Rule 4 (5) of the aforesaid Rules which is relevant in this context clearly allows filing of a common/joint application in all cases in which the relief sought is common and the cause of action is the same. The aforesaid plea is also, therefore, rejected. 2

14. The contention raised in respect of territorial jurisdiction also cannot be sustained for the simple reason that the matter regarding interest payment, in the circumstances of this case, is clearly required to be decided at the level of the Railway Board. The circular dated 17.4.1998 granting payment of interest in certain cases has itself been issued by the Railway Board. Non-payment of the same relief to the applicants herein would, in the circumstances, obviously attract the authority of the Railway Board as such the matter cannot be decided at a lower level by any other office of the Railways located elsewhere. The cause of action, in the circumstances, lies at least in part at Delhi.

15. The learned counsel appearing on behalf of the respondents' insistence that since the Railway Board's instructions for payment of interest were issued on 17.4.1998, time should be computed for limitation purposes with effect from the same date, has been sought to be answered by and on behalf of the applicants by contending that the aforesaid circular is an internal circular issued for compliance by the General Managers, and, therefore, it will be unfair to reckon limitation from that very date. In pursuance of the earlier circular dated 14.10.1997, the applicants herein have received payments of arrears of difference in the amounts of pension and the DCRG on different dates extending from January, 1999 to December, 2000. Such payments, however, were made, according to the applicants, without interest. Thus, in their case, cause of action arose only after they received the aforesaid amounts in respect of pension and DCRG without receiving

the amount of interest as well. For this reason also, the applicants' case cannot be said to be hit by limitation.

16. On the issue of limitation, the learned counsel appearing on behalf of the applicants had also relied on the Supreme Court's judgement dated 3.1.1996 in Girdhari Lal versus Union of India & Ors. (SLP (C) No.14005/92). In respect of the same issue, he has also placed reliance on the Apex Court's judgement dated 28.1.1993 in Rameshwari Prasad Sinha versus Union of India & Ors. (CA No.354/93 arising out of SLP (C) No.10028/90). He has, during the course of arguments, read out certain portions of the judgements rendered by the Supreme Court in several other cases as well, in order to impress that the contention with regard to limitation cannot be successfully raised in the circumstances of the present case. While I do not consider it necessary to go into the details of the various rulings cited by the learned counsel, I find it useful to reproduce what the Apex Court has held in Girdhari Lal's (supra) in the following terms:-

"It is not disputed that the claim of the appellant based on the decision in T.A.No.319/85 is material also for computation of the retiral benefits to which the appellant is entitled even now. That being so, it is difficult to appreciate the resistance on behalf of the Union of India to grant the same benefit to the appellant and the rejection of the appellant's claim made herein. In view of the decision of the Tribunal in T.A.No.319/85, it is appropriate that the Union of India treat all such persons alike and to grant them the same benefits instead of driving each one of them to litigation in the course of which the Union of India itself is required to spend considerable public money..."

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(emphasis supplied)

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17. In the background of the aforesaid ruling, I find it appropriate to hold that the FB's judgement in question dated 16.12.1993 should have activated the respondents herein without any loss of time and consequently without waiting for the various applicants and other similarly placed persons to approach the Tribunal one after the other, they should have initiated action to grant the various reliefs including the relief of interest payment to all the similarly placed persons including the applicants herein. If a policy circular was required to be issued before initiating action as above, they could still proceed to grant the aforesaid relief to all the similarly placed persons immediately after the circulars in question had been issued. In these circumstances, it will not be just and proper to apportion any blame on the applicants herein in respect of the delays involved. For these reasons and for whatever else has been upheld in this order in the previous paragraphs, I do not consider it necessary to refer to the various rulings of the Supreme Court relied upon by the learned counsel for the respondents during the course of the arguments.

18. For all the reasons brought out in the preceding paragraphs, I find considerable merit in the present OA which is allowed. The respondents are accordingly directed to make payments of interest to all the applicants @ 12% p.a. from the date three months after the date, namely, 25.7.1997 on which the Supreme Court passed orders in the appeals filed by the applicants. The aforesaid payments

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will be made expeditiously and in any event within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. *dr*

S.A.T. Rizvi

(S.A.T. Rizvi)
Member (A)

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