


(21)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2856/1999

New Delhi, this the 10th day of December 2001

HON'BLE MR. M.P. SINGH, MEMBER (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

1. Retired Railway Drivers Association
North Railway, Ghaziabad, U.P.
G-80A, Sector-9, New Vijay Nagar
Ghaziabad, U.P. Through its President
Shri Som Nath Sharma
 2. Shri Nawal Kishore
Secretary
Retired Railway Drivers Association
North Railway, Ghaziabad
G-80A, Sector-9, New Vijay Nagar
Ghaziabad, U.P.
 3. Shri Nand Lal
 4. Shri Bheem Singh
 5. Shri Amar Singh
 6. Shri Jagvinder Lal
 7. Shri Om Prakash
 8. Shri Raghubir Singh
 9. Shri Bishan Saroop
 10. Shri Somnath
 11. Shri Veer Singh
 12. Shri Munna Lal
 13. Shri Ram Chander
 14. Shri Harish Chander
 13. Lachman Singh/TS
 14. Lila Kishan/JD
 15. Bholu Dutt/Dhani Ram
 16. Yatnider Kumar/BD
 17. Amrit Lal/SD
 18. A.W. Setphen/KW
 19. Om Prakash/DR
 20. Hukam Chand/JN
 21. Yeah Pal/DR
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22. Siri Ram/NR
23. Gurcharan/BS
24. Ram Ji Lal/D
25. Shiv Raj Sharma/HB Lal
26. Nathoo Singh/NS
27. Moti Lal/MD
28. Pooran Singh/TD
29. Suresh Chand/OP
30. Bal Kishan/MR
31. Nathoo Ram/AS
32. Bahadur Singh/SS
33. Surrender Singh/SS
34. Jawahar Singh/RL
35. Ram Kishan/Govind
36. Ram Bhajjan/MR
37. Sham Sunder/NC
38. Lalta Prashad/BR
39. Balvir Singh/KS
40. Ram Chander/S
41. Kanahya Lal/RS
42. Suresh Chand/FC
43. Khachrou Singh/RS
44. Chander Pal Singh/SS
45. Ram Avtar/KL
46. Sumat Pks/RN
47. Mam Chand/JR
48. Som Nath/SL
49. Kidar Nath/SL
50. Prithvi Pal Kapoor
51. Devinder Singh/HS
52. Suraj Parkash/DN
53. Om Prakash/G
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54. Munna Singh/NS
55. Raj Pal/LC
56. Dharam Bir/RL
57. Vikram Singh/NS
58. Ganesh Dass/TD
59. Ram Avtar Singh/AS
60. Sital Singh/MS
61. Haled Juston/HHL
62. Jagdish Chand/TD
63. Sohan Singh/AS
64. Kishan Kant/LP
65. Durag Pal Singh/BP
66. Harbhajan Singh/BS
67. Bhagwan Dass/PL
68. Roda Singh/NS
69. Prem Narain/KR
70. Harsha Nand/BD
71. Raghu Raj Chand/MC
72. Shiv Murti/RPR
73. Ramesh Chand/RC
74. Kailash Basi Singh/PM
75. Hira Lal/LD
76. Dhanesh Chand/DD
77. Sandal Singh/JR
78. Jeet Singh/JS
79. Tirloki Parshad/SL
80. Narain Singh/US
81. M.P. Chauhan/GS
82. Prem Raj Singh/SL
83. Prem Sagar/BD
84. Surrinder Kumar/MS
85. Shanti Pal/RJ



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86. Mohd. Islam/BK
87. Khazan Singh/RS
88. Mahabir Prashad/N
89. Chander Pal Singh/R.P
90. Saudan Singh/CS
91. Rajinder Singh/HS
92. Grise Chand/NL
93. Shanker Lall/DP
94. Ram Singh/TR
95. Bagh Chand/NL
96. Newal Kishore/KR
97. Som Prakash/JL
98. Hira Mani/MR
99. Phool Chand Raw/PN
100. Bhagwan Dass/CS
101. Prem Singh/BS
102. Chander Dutt/ML
103. Gokal Singh/HS
104. Rai Singh/GL
105. Sukh Bir Singh/M
106. Ramesh Chand/L
107. Sachida Nand/SL
108. Raja Ram/LR
109. Talawar Singh
110. Raj Kumar
111. Balveer Singh/DC
112. Govind Ram/LR
113. Chander Prakash/TR
114. Shiv Ram/BL
115. Ramesh chand/MC
116. Hari Baboo/NL
117. Bhooray Lal/PL



118. Som Dutt/RPS
119. Dharam Pal/NR
120. Chandan Singh/BL
121. Sohan Singh/KS
122. Shamboo Dayal
123. Man Mohan Kumar/JJ
124. Joginder Singh/BS
125. Shamalia Parshad/HL
126. Chaman Singh
127. Virender Kumar/KS
128. Chandar Bhan/R.S.
129. Yog Raj/U.C.
130. Lekh raj/A.C.
131. Gurcharan Singh/D.S.
132. Krishan Lal/ KR.
133. Panna Lal
All c/o of Retired Railway
Drivers Association
North Railway, Ghaziabad, U.P.
G-80A, Sector-9, New Vijay Nagar,
Ghaziabad, U.P. ... Applicants
(None for the applicant)

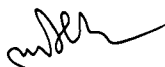
V E R S U S

1. Union of India
Through the Chairman
Railway Board
Rail Bhavan
New Delhi-110001.
2. General Manager
Northern Railway
Baroda House
New Delhi-110001. ... Respondents
(By Advocate: Shri R.L. Dhawan)

ORDER (ORAL)

By M.P. Singh, Member (A) :

None present for the applicants even on the second call. Since the present case is 1999 matter, we proceed to dispose of the present case in terms of Section 15 of CAT (Procedure) Rules, 1987.



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2. The applicants No.1 is Retired Railway Drivers Association, Applicant No.2 is Secretary of Retired Railway Drivers Association and applicant Nos.3 to 133 are the members of Applicant No.1. The applicants, retired Railway servants, have challenged the notification dated 5.12.1988 whereby Rule 2544 of Indian Railway Establishment Code (in short 'IREC') was amended and was made operative from 1.1.1973 and 1.4.1979 which provide therein the percentage of running allowance to be computed for the purpose of determining pension from 75 per cent to 45 per cent and 55 respectively.

3. Brief facts of the case are that the respondents have issued instructions to compute 75 per cent of the running allowance for the purpose of calculation of the pension on the recommendation of the IIIRD Central Pay Commission. Thereafter they issued another letter dated 22.3.1976 whereby the percentage of running allowance for the purpose of computing the pension was reduced from 75 per cent to 45 per cent w.e.f. 1.1.1973. This reduction of the prescribed ceiling was challenged by the All India Guard Council by way of writ petition in Delhi High Court, which stood transferred to Central Administrative Tribunal (P.B.), New Delhi. The said writ petition was allowed by the Tribunal vide its judgement dated 6.8.1986 in the case of Dev Dutt Sharma & Ors. Vs. Union of India and Ors. reported as 1986 (1) ATC 646. The order of the Railway Board dated 22.3.1976 was quashed by the Tribunal on the ground that the executive instructions issued by the Railway Board

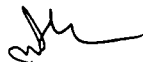


cannot override, the instructions contained in the statutory rules framed by the President under Article 309 of the Constitution in the IREC. Thereafter the respondents have amended the Rule 2544 of IREC² vide notification dated 5.12.1988. The said rule was, however, made operative from 1.1.1973 and 1.4.1979 respectively and it was provided that the running allowances for the computation of pension would be reduced from 75 per cent to 45 per cent w.e.f.1.1.1973 and 55 per cent w.e.f.1.4.1979 respectively. The said notification dated 5.12.1986 was challenged before Ernakulam Bench and that Bench quashed the notification so far as it gives the retrospective effect. In view of the conflicting judgements of the various Benches, the matter was referred to the full Bench which agreed with the view of Ernakulam Bench. The judgement of the Full Bench was challenged in the Hon'ble Supreme Court in the case of Chairman, Railway Board & Ors. Vs. C.R. Rangadhamaiah reported as 1997 (2) S.C.S.L.J. 368 and the Hon'ble Supreme Court vide its judgement dated 25.7.1997 upheld the judgement of the Full Bench. The contention of the applicants is that they have rendered 30 to 40 years service under the Railways and their quantum of pension has been decreased by reducing the emoluments of running allowances from 75 per cent to 45 per cent w.e.f.1.1.1973 and 55 per cent w.e.f.1.4.1979 respectively by the respondents. The applicants have made representations to the respondents but no response has been received by them. Aggrieved by this, they have filed the present OA seeking the relief by praying for direction to quash the impugned order dated 5.12.1988 in

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so far as it gives retrospective effect to Rule 2544 of IREC Vol.II from 1.1.1973 and 1.4.1979. They have also sought directions to extend the benefit of the judgement of the Hon'ble Supreme Court in the case of Chairman, Railway Board Vs. C.R. Rangadhamaiah (supra) to the members of the applicant No.1's Association and those employees who joined prior to 5.12.1988 but retired subsequently.

4. The respondents have filed their reply and have stated that the application is barred by limitation. The Hon'ble Supreme Court in the case of P.K. Ramachandran Vs. State of Kerala reported as JT 1997 (8) SC 189 had laid down the law that "law of limitation may harshly affect a particular party but it has to be applied with its rigour when the statute so prescribed and the courts have no power to extend the period of limitation on equitable grounds." The respondents have also stated that the application is barred under the doctrine of Res-judicata. According to them, the said notification dated 5.12.1988 came up for judicial scrutiny before the Constitutional Bench of the Hon'ble Supreme Court in the case of Chairman, Railway Board & Ors., vs. C.R. Rangadhanaiah (supra) which vide its judgement dated 25.7.1997 affirmed the view taken by Full Bench of this Tribunal that the amendments that were made in Rule 2544- R-II by the impugned notification dated 5.12.1988 to the extent that the said amendments have been given retrospective effect in so far as it reduced the maximum limit from 75 per cent to 45 per cent in respect of the period from 1.1.1973 to



31.3.1979 and further it reduced to 55 per cent in respect of the period from 1.4.1979 onwards are unreasonable, arbitrary and violative of the rights guaranteed under Articles 14 and 16 of the Constitution. The respondents in their reply have also stated that the Retired Drivers Associations, Northern Railway, Ghaziabad is not a recognised and registered Association and they have no jurisdiction to agitate the grievances of the retired Railway employees. They further stated that the grievances of Group 'C' and 'D' staff are taken up by two recognised federations, viz. All India Railway Men Federation and National Federation of Indian Railways Men. In view of the aforesaid submissions, the present application is not maintainable and is liable to be dismissed.

5. We have heard learned counsel for the respondents and perused the records.

6. The question for consideration before us is whether the instruction issued on 5.12.1988 by the Railway Board reducing the emoluments for the purpose of computation of the pension with regard to the running allowance can be made applicable to those Railway employees who have retired after 5.12.1988. During the course of the arguments, learned counsel for the respondents has drawn our attention to the judgement of the Hon'ble Supreme Court in the case of Chairman, Railway Board & Ors., Vs. C.R. Rangadhamaiah (supra) and stated that the Hon'ble Supreme Court has already upheld the validity of the said notification, it was



only with regard to retrospective effect given in that notification from 1.1.1973 and 1.4.1979, which has been struck down by the Hon'ble Supreme Court. According to him, all the applicants Nos. 3 to 133 are retired Railway employees and all of them have retired after the said notification dated 5.12.1988. Since the Hon'ble Supreme Court has already upheld the validity of the said notification and the same was struck down so far as the retrospective effect of the said notification is concerned, therefore, the applicants are not entitled for the benefit of the aforesaid judgement of the Hon'ble Supreme Court as all of them have retired after 5.12.1988.

7. We have carefully considered the plea taken by the applicants for giving the benefits of the judgement of the Hon'ble Supreme Court and we are of the considered view that since the applicants have retired after 5.12.1988, i.e., after Rule 2544 of IREC was amended by the said notification, they cannot be given the benefit of the judgement of the Hon'ble Supreme Court in the case of Chairman, Railway Board & Ors. Vs. C.R. Rangadhamaiah. Their pension is to be paid in accordance with rules as it stood on the date of their retirement under Rule 2544 of IREC as the said Rule has been upheld by the Hon'ble Supreme Court. In view of this, the OA is devoid of any merit and is accordingly dismissed. No costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)

M.P. Singh
(M.P. SINGH)
MEMBER(A)

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