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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1179/98
MA No. 1197/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 9th day of October, 2000

Shri Balram Singh
s/o Shri Prem Raj
working as Cashier
Rail Yatri Niwas
Northern Railway
New Delhi

....Applicant.

(By Mrs. Meenu Maineee, proxy of Shri B.S.Maineee,
Advocate)

Vs.

Union of India : Through

1. The General Manager
Northern Railway
Baroda House
New Delhi
2. The Executive Manager
Rail Yatri Niwas
Northern Railway
New Delhi

....Respondents.

(By Shri B.S.Jain, Advocate)

O R D E R (Oral)

By Shri Govindan S. Tampi, Member(A):

The challenge in this application is ^{against} the alleged wrongful action of the respondents in denying the pay scale of Rs.1320-2040 to the applicant, in which post, i.e., Cashier, he has actually worked.

2. The applicant in this case joined as a Telephone Operator in the grade of Rs.950-1500 and was posted in Rail Yatri Niwas, New Delhi on 12.4.1989. However, in the absence of their being any Telephone Exchange in Rail Yatri Niwas the applicant was put to work as Cashier in which cadre there was a shortage of

staff. The Rail Yatri Niwas, having been placed under the administrative control of the Headquarters office, General Manager, was treated as an extra Divisional office. ~~Four~~ ^{Five} posts of cashiers were sanctioned for that office, but none had been appointed and it was to attend to one of those vacancies, ^{that} the applicant was engaged. Though the pay scale of Cashier is Rs. 1320-2040 and the applicant had actually worked/performed the functions of Cashier, (though originally selected as Telephone Operator in the grade of Rs. 950-1500), he was not paid the emoluments relatable to the higher post, which he was working in. Two other persons, who were working in the similar capacity, i.e., S/Shri Surinder Singh and Binda Pandit, originally recruited as Clerk-cum-Typists, approached this Tribunal in OA NO.2556/91, which was decided on 26.2.1997, giving them the benefit of higher scale. The applicant filed a representation was getting the same benefit extended to them and has thereafter come before this Tribunal in this OA.

3. Heard Mrs. Meenu Mainee, learned proxy counsel appearing on behalf of the applicant. She strongly urged that on the basis of the principle of 'equal pay for equal work', her client should get the benefit of the decision of the Tribunal in OA No. 2556/91 which was given to S/Shri Surinder Singh and Binda Pandit, who were similarly placed.

4. In the reply filed on behalf of the respondents, it is pointed out that the applicant was selected only for being posted as Telephone Operator even if for sometime ^{he had performed} ~~they had performed~~ as cashiers

on account of administrative exigencies. ^{He was} ~~They were~~ not given any specific appointment as cashiers. Shri B.S.Jain, further argues that the OA was hit by limitation. During the course of the arguments, the learned counsel for the applicant referred to a decision of the Hon'ble Apex Court in support of her case i.e. decision in the case of K.C.Sharma & Others Vs. Union of India & Others, (1998(1) AISLJ SC P-54, wherein the head note indicates that "Application filed by similarly placed persons should not be rejected for bar of limitation". Though we tried hard to find the above sentence in the judgment, we did not succeed, as the head note was misleading and the sentence was not ^{A part} part of the judgment.

5. We have considered the matter carefully. We fully appreciate the concept that persons entitled to certain benefits, which persons in similar circumstances have been given either by administrative action or on the basis of the decision of the Tribunal should also be given the same, but such a benefit cannot be ^{granted} accorded unless a person comes in time. In this particular case, Shri Surinder Singh and Binda Pandit who were in similar circumstances had appeared before the Tribunal way back in 1991 to get the benefit whereas the applicant has sought that benefit only after 1997, and that too after the decision of the Tribunal has been given on the application filed by S/Shri Surinder Singh and Binda Pandit. The cause of action did not actually start in 1997 but it began in the year 1991. The applicant was comfortably sleeping over his right for more than six years. The Honourable Supreme Court in the case of State of

Karnataka & Others Vs. S.M.Kotrayya & Others, 1996

SOC (L&S) 1988 had held that the mere fact of filing a belated application immediately after coming to know that in similar claims relief had been granted by the Tribunal was not a proper explanation to justify the condonation of delay. The explanation must relate to failure to avail oneself of the remedy within the period of limitation. In this case the applicant had failed to do so. Hence the application is hopelessly time barred. We have also perused the MA filed by the applicant for condoning the delay in filing the OA but find no good ground to accept it. The same is dismissed.

6. In view of the above matter, the OA is dismissed ^{along with the MA} on the preliminary objection of limitation.

No costs.

11/29/03
(GOVINDAN S. TAMPI)
MEMBER(A)

Ambygopal Reddy
(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/