

Central Administrative Tribunal
Principal Bench: New Delhi

R.A. No. 295/94,
MA 3310/94
O.A. No. 774/94

New Delhi the 26th of September, 1994

Hon'ble Shri J.P. Singh, Member (J)
Hon'ble Shri B.K. Singh, Member (A)

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1. K.C. Sharma s/o Late Pt. Uma Ratta Sharma
aged 66 years,
Retd. Guard 'A' Spl.
N. Railway, Bikaner Division,
Headquarters, Sarai Rohilla, Delhi.
Resident of : H-52, Sector 23,
Raj Nagar, Ghaziabad (U.P.)
2. B.D. Malhotra s/o Late Ram Lal Malhotra
aged 64 years,
Retd. Guard 'A' Spl.,
Northern Railway, Bikaner Divn.,
Headquarters - Sarai Rohilla, Delhi
Resident of : MIG Flat No. D-10/1-1,
Sector-7, Rohini,
New Delhi-110085.
3. S.C. Suri s/o Late Kundan Lal
aged 63 years,
Retd. Guard 'A' Special
Northern Railway, Bikaner Div.
Headquarters Saras
r/o S-H/96, Shastri Nagar,
Ghaziabad (U.P.).
4. Smt. Ved Wati W/o L/R of Late Achal Singh Nagar,
retired Guard 'A'
Northern Railway, Bikaner Division,
Headquarters - Sarai Rohilla, Delhi,
Resident of : Village
P.O. - Ballabgarh, Distt. Faridabad (Haryana).
5. Smt. Vimal Sharma,
widow of L/R Late Laxmi Narain Sharma,,
Retired Guard 'A', Northern Railway,
Delhi Division, Headquarters, Delhi,
Resident of : H. No. 167/7, Rly. Colony,
Kishanganj,
Delhi.
6. Smt. Raj Bhardwaj
Widow of L/R of Late R.K. Bhardwaj,
Retired Guard 'A' Northern Railway,
Delhi Division, Hd. Qrs. New Delhi.
Resident of H. No. 21/1, Rly. Colony,
Kishanganj,
Delhi.

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7. Smt. Santosh Sharma
widow L/R of Late Shanti Saroop Sharma,
Retired Guard 'A', Northern Railway,
Bikaner Division, Headquarters, Rewari,
Resident of Rewari, Haryana.

8. Smt. Savitri Devi
widow of L/R of Late Rati Ram
Retired Driver 'A', Northern Railway,
Bikaner Division, Hd. Qrs.,
Rewari.

9. Nand Prakash Sharma
s/o Late Shiva Parsad,
Aged 64 years, Retired Driver 'A' Spl.,
Northern Railway, Bikaner Division,
Headquarters, Sarai Rohilla, Delhi.

10. Dhanpat Singh s/o Late Vijay Singh
aged about 67 years,
Retired Driver 'A', Northern Railway,
Bikaner Division, Hd. Qrs. Sarai Rohilla,
Delhi.

11. Arjan s/o Shiv Shankar
- Retired Driver 'C'
Northern Railway, Bikaner Division,
Headquarters, Sarai Rohilla,
Delhi.

12. Jetha Nand
s/o Late Ram Chand,
aged about 68 years,
Retired Driver 'B1', Shakurbasti,
Northern Railway,
Delhi.

13. K.C. Grover s/o Late Desu Ram
aged 67 years,
Retired Guard 'A', N. Fly.,
Bikaner Division, Hd. Qrs.,
Sarai Rohilla, Delhi.

14. Sat Pal s/o Late Dina Nath,
aged 67 years,
Retired Guard 'A' Loco-Shed,
Northern Railway, Delhi Division,
Hd. Qrs., Delhi.

15. Om Parkash s/o Late Bhola Nath
aged 68 years, Retired Guard 'A'
N. Fly., Ratangarh, Bikaner Division,
Hd. Qrs., Ratangarh.

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16. Rameshwar Nath Sharma s/o Late Ram Prakash
aged 64 years,
Retired Guard 'A', N. Rly.,
Headquarters, Sarai Rohilla,
Delhi.

17. Gopal Dass s/o Late Dewan Chand Sharma,
Aged about 69 years,
Retired Driver 'B', N. Rly.,
Shakurbasti, Headquarters,
Delhi.

18. Shanti Sarup s/o Late Pt. Yad Ram
Aged about 69 years,
Retired Guard 'A', N. Rly.,
Bikaner Division, Hd. Qrs.,
Sarai Rohilla, Delhi.

19. Mohan Lal s/o Late Bachhu
aged about 69 years,
Retired Loco Shunter,
Northern Railway, Delhi Division,
Headquarters, Delhi.

20. Harcharan Singh s/o Late Mool Singh
Aged about 69 years,
Retired Guard 'A',
Northern Railway, Bikaner Division,
Headquarters, Sarsa.

21. Hari Singh s/o Late Laxman Singh
Aged about 65 years.,
Retired Driver 'A',
Northern Railway, Bikaner Division,
Headquarters, Rewari.

22. Chander Singh s/o Late Bahadur Singh
Aged about 65 years,
Retired Driver 'A' Sp.
Northern Railway, Bikaner Divn.
Rewari.

23. Raghunath Singh s/o Late Harnam Singh
aged about 67 years,
Retired Driver 'C'
N. Rly., Bikaner Division,
Headquarters, Sarai Rohilla,
Delhi.

24. Munshi Ram s/o Late Hazari Lal
Aged 65 years,
Retired Guard 'A'
Northern Railway, Bikaner Division,
Headquarters,
Rewari.

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25. Kali Charan s/o Late Fanna Lal
Aged about 63 years,
Retired Guard 'A'
N. Rly., Bikaner Division,
Headquarters, Churu.

26. Radhey Lal Gupta s/o Late Hari Ram Gupta
aged about 69 years,
Retired Guard 'A', Northern Railway,
Bikaner Division,
Headquarters, Rewari.

27. Ram Kishore Gupta s/o Late Ramji Lal Gupta
aged about 70 years,
Retired Guard 'A', Special,
Northern Railway, Bikaner Division,
Headquarters, Rewari.

28. D. S. Malik s/o Ram Prakash Malik,
aged about 65 years,
Retired Guard 'A', Northern Railway,
Bikaner Division,
Headquarters, Rewari,

29. Smt. Sarja Devi
Widow of /L. R. Late Bhim Singh
Retired Guard 'A'
Northern Railway, Bikaner Division,
Headquarters, Rewari.

30. Balbir Singh Sharma s/o Late Parmanand,
aged about 65 years,
Retired Guard 'A' Spl.,
Northern Railway, Bikaner Division,
Headquarters, Rewari.

31. Chandgi Lal Sharma s/o Late Paulat Ram
aged 72 years,
Retired Guard 'A' Spl.,
Northern Railway, Bikaner Division,
Hd. Qrs., Rewari.

32. Hari Har Swarup Sharma s/o Bal Mukand
aged about
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division,
Headquarters, Rewari.

33. Ram Swarup Saini
s/o Khairati Lal Saini,
Aged about 69 years,
Retired Driver 'A', Spl. Northern Railway,
Bikaner Division, Hd. Qrs.,
Rewari.

34. Balwant Singh s/o Sohan Lal
aged 65 years, Retired Driver 'A',
Northern Railway, Bikaner Division,
Hd. Qrs., Rewari.

35. Nehal Chand s/o Late Bihari Lal
aged about 63 years,
Retired Guard 'A',
Northern Railway, Bikaner Division,
Headquarters, Sarai Rohilla, Delhi.

36. Kirori Lal s/o Shadi Lal
aged about 63 years.,
Retired Loco Shunter 'B'
Northern Railway, Bikaner Division,
Headquarters, Rewari.

37. Ram Murti s/o Late phoosa Ram
aged about 75 years,
Retired driver 'A' Spl.
Bikaner Division, Hd. Qrs.,
Rewari.

38. Rang Lal s/o Nar Singh
aged about 68 years,
Retired Driver 'A'
Northern Railway, Bikaner Division,
Headquarters, Rewari.

39. Kishan Chand s/o Motu Ram
aged about 65 years,
Retired Driver 'A',
Northern Railway, Bikaner Division,
Sarai Rohilla, Delhi.

40. Sunder Lal s/o Late Chhotey Lal
aged about 72 years,
Retired Guard 'C', N. Fly.,
Bikaner Division, Hd. Qrs.,
Rewari.

41. Lashkari Ram Mangar s/o Late mir Chand
aged about 72 years,
Retired Guard 'B',
Northern Railway,
Bikaner Division, Hd. Qrs.,
Rewari.

42. Lilco s/o Late Shiv Sahai
aged about 72 years,
Retired Driver 'A', N. Fly.,
Bikaner Division,
Hd. Qrs., Rewari.

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43. Shiam Lal Vashishtha s/o Late Bakhtawar Singh
Aged about 65 years,
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division,
Hd. Qrs., Rewari.

44. Ram Gopal K. S/o Late Khushi Ram
aged about 67 years,
Retired Driver 'C'
Northern Railway, Bikaner Division,
Headquarters, Rewari.

45. Lekh Raj s/o Honda Ram
aged about 65 years,
Retired Driver 'A'
Northern Railway, Bikaner Division,
Hd. Qrs., Rewari.

46. Ghan Shiam Singh s/o Late Ram Chander,
aged about 65 years,
Retired Driver 'B'
N. Rly., Bikaner Division,
Hd. Qrs., Rewari.

47. Udal Ram s/o Late Bhom Singh
aged about 64 years,
Retd. Driver 'B'
Northern Railway, Bikaner Division,
Headquarters, Rewari.

48. Munshi Ram s/o Mai Lal
aged about 60 years,
Retired Guard 'A'
Northern Railway, Bikaner Division,
Hd. Qrs., Rewari.

49. Hari Ram s/o Manohar Lal
aged about 66 years,
Retired Driver 'C'
Northern Railway, Bikaner Division,
Headquarters, ~~Churu~~ Churu.

50. Baldeo Raj s/o Fateh Chand
aged about 63 years,
Retired Driver 'A', Northern Railway,
Bikaner Division,
Hd. Qrs. Sarai Rohilla, Delhi.

51. Kishan Lal 'C' s/o Chunni Lal
aged about 66 years,
Retired Driver 'A' Spl.
N. Rly. Bikaner Division,
Hd. Qrs., Rewari.

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52. Ram Lal 'D' s/o Dayal Chand
aged about 65 years,
Retired Driver 'B'
Northern Railway, Bikaner Division,
Headquarters, Suratgarh.

53. Man Mohan Kaul s/o Late Ratan Lal Kaul
aged about 65 years,
Retired Guard 'A' Spl.
N. Rly. Bikaner Division,
Hd. Qrs. Suratgarh.

54. Surender Mohan Singh s/o Late Kundan Lal,
aged about 65 years,
Retired Guard 'A' Spl., N. Rly.,
Bikaner Division, Hd. Qrs.,
Suratgarh.

55. Nathu Singh s/o Mulia
aged about 62 years,
Retired Brakesman Guard-II,
N. Rly., Bikaner Division,
Hd. Qrs., Rewari.

56. Laxmi Narain s/o Late Budha
aged about 67 years,
Retired Driver 'A' Spl.
Northern Railway, Bikaner Division,
Headquarters, Rewari.

57. Shri Kishan s/o Late Nanak Chand
aged about 67 years,
Retired Guard 'A',
N. Rly., Bikaner Division,
Headquarters, Hanumangarh.

58. Madan Lal 'K' s/o Khuli Ram,
aged about 66 years,
Retired Driver 'C', N. Rly.,
Bikaner Division, Hd. Qrs., Rewari.

59. Nand Kishore s/o Bansi Parshad
aged about 66 years,
Retired Driver 'C', N. Rly.,
Bikaner Division,
Hd. Qrs., Rewari.

60. Shafi Mohammad s/o Jamaluddin
aged about 65 years
Retired Driver 'A' Spl. N. Rly.,
Bikaner Division, Hd. Qrs.,
CHURU.

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61. Yog Dhian s/o Late Chandra Bhan
Aged about 65 years,
Retired Guard 'A' N. Rly.,
Delhi Division, Hd. Qrs.,
Ghaziabad.

62. Med Singh s/o Late Vijay Singh
aged about 68 years,
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division
Hd. Qrs. Rewari.

63. Mool Chand K. Verma s/o Late Khushi Ram
Aged about 66 years,
Retired Guard 'A' Spl.
Western Railway, Division Botad,
Hd. Qrs. B.V. Para.

64. Beni Singh Sharma s/o Behari Lal Sharma
aged about 67 years,
Retired Guard 'A'
Western Railway, Ajmer Division,
Hd. Qrs. ABU ROAD.

65. Ramji Das Sikka s/o Late Guru Datta Mall
aged about 76 years,
Retired Guard 'B'
Western Railway, Baroda Division,
Hd. Qrs. Dhaboi.

66. Khen Chand Gera s/o Late Bhagwan Das
aged about 71 years,
Retired Guard 'B',
Western Railway, Baroda Division,
Hd. Qrs. Dhabei.

67. Triloki Nath Sardana s/o Nikhi Chand
aged about 64 years,
Retired Guard 'A', Western Railway,
Ajmer Division, Hd. Qrs., Udaipur.

68. R.K. Malhotra s/o Late Baloo Ram Malhotra,
aged about 68 years,
Retired Guard 'A',
Western Railway, Jaipur Divn.,
Hd. Qrs. Jaipur.

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69. R. R. Kalra ^{1c} s/o Onkar Parsad
Aged about 65 years,
Retired Guard 'A', Western Railway,
Jaipur Division,
Headquarters, Jaipur.

70. Manohar Lal s/o Late Sone Ram
aged about 66 years,
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division,
Headquarters, Rewari.

71. N. N. Mullaik s/o Late Govind Ram aged 64 yrs.
Retired Guard 'A' Spl. N. Rly.,
Moradabad Division Hd. Qrs.,
MORADABAD.

72. Surajwati W/o LR Jai-Narain Yadav,
Retired Guard 'A', Bikaner Division,
Hd. Qrs., Churu.

... APPLICANTS

Versus

1. The Union of India
through Chairman,
Railway Board, Ministry of Railways,
Rail Bhawan, New Delhi.
2. The General Manager,
Northern Railway,
Headquarters Office, Baroda House,
New Delhi.
3. The General Manager,
Headquarters Office, Church Gate,
BOMBAY.

... RESPONDENTS

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ORDER (By Circulation)

Hon'ble Shri J.P. Sharma, Member (J)

The original application was filed by retired railway employee K.C. Sharma, and 71 others that they should be given the benefit which have been allowed to the petitioner in the case of Shri C.L. Malick and others and by the judgement of Full Bench, Central Administrative Tribunal, Bangalore Bench. It is also prayed that running allowance drawn by them before their superannuation from the railway service be taken into account in terms of Rule 2544 of the Indian Railways Establishment Manual for the purposes of fixation of Pension with the direction to the respondents to revise the pension and pay the arrears falling due after refixation of their pension alongwith interest.

2. The original application was filed on 9.4.1994. The O.A. was heard at the admission stage and was dismissed by the Division Bench by the Order dated 25.7.1994.

3. One of the applicants has filed this Review Application on the ground that the Tribunal has erred in inferring and concluding that the application is barred by delay, laches and limitation. It is also stated that the case of the applicant is not governed by Section 21 of the AT Act, 1985 which prescribes the period of limitation. It has also been taken as a ground that in the case of Shri R.R. Bhanot Vs. Union of India and others Judgement Today 1994(1) SC 1, the Hon'ble Supreme

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Court has granted the pensionary relief even after a decade and also a copy of the judgement of Single Bench, CAT, Jaipur Bench of a case OA No. 533/92 decided on 8.4.1994 has been filed with the Review Application.

4. We have considered all the grounds taken by the Review Applicant. The application has been dismissed on the point of delay and laches. The railway retiree of 1986, 87 and 1988 have joined together to file this application in April 1994. The only ground was that since there has been a decision in some of the cases of Central Administrative Tribunal so they should also be given the benefit of running allowance in fixation of pensionary benefits. The Tribunal has considered all these points in the detailed judgment. The points which have already been considered cannot be reagitated in the Review Application. The scope of the review is limited as under:

In this review application the applicant can not has again raise the same grounds as raised in the OA itslef. Under Order XLVII Rule 1, Civil Procedure Code, a judgement/decision/order can be reviewed only if (i) it suffers from an error apparent on the face of the record; (ii) on account of discovery of any new material or evidence which was not within the knowledge of the party or could not be produced by it at the time of the judgement was made despite due diligence; and (iii) for any sufficient reason, construed to mean analogous reasons. The forum of review cannot be used to challenge the merits of a judgement.

In AIR 1975 SC 1500 - Chandra Kanta & Anr. Vs. Kanta & Anr. Vs. Sheikh Habib, the Hon'ble Supreme Court has observed as follows:

"A review of a judgement is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake

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or like grave error has crept in earlier order by judicial fallibility. A mere repetition through different counsel of old and new overruled arguments, a second trip over ineffectually covered ground or minor mistake of inconsequential import are obviously insufficient."

5. Again in AIR 1979 SC 1407 - Aribam Tuleshwar Sharma Vs. Aribam Fishak Sharma & Ors., The Hon'ble Supreme Court has held as follows:

"The power of review can be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court".

6. The applicant cannot ask the rehearing of the whole case. The review applicant has himself file a copy of the judgement of the Hon'ble Supreme Court dated 16.12.1993 where the judgement of the Tribunal granting the relief to the applicants of Bangalore Bench of OA 80/93 has been assailed in SLP before the Hon'ble Supreme Court. The judgement of the CAT has not become final and SLP against the same is pending before the Hon'ble Supreme Court. The judgement never give a cause of action. If subsequently a declaration of law is made giving the benefit to certain petitioners in a Writ Petition or a case, then in that case those who are parties may get the benefit. Those who had come at the relevant point of time for asserting their claim can get the benefit. Those who come years after may not be

granted that benefit by issue of a Writ because even if there was a right available the remedy was allowed to be lost by delay and laches. In the case of Rattan Chand Samanta Vs. Union of India Judgement Today 1993(3)SC P 418 the Hon'ble Supreme Court held that a person who has lost his remedy by lapse of time loses his right as well. The Tribunal is not a court and has no power to condone the delay under Indian Limitation Act 1963 as held by the Hon'ble Supreme Court in 1993(2) JT P 430.

7. As regards the decision of the Jaipur Bench i.e. by Single Member Bench and the points of limitation was not considered. Secondly, there is no mention that SLP is pending before the Hon'ble Supreme Court against the judgement delivered by various Benches of CAT. The case cited in the Review Application of R.R. Bhanot (Supra) is not at all applicable to the present case. Shri Bhanot rendered the service in the erstwhile State of Punjab and Himachal Pradesh. His pre-mature retirement in Himachal Pradesh was set aside but he was not given any benefit of pension etc.

8. While considering this RA, MA 3310/94 has also been considered.

9. There is no error apparent on the face of the judgement. Review Application, therefore, is dismissed by Circumlocution.

(B.R. Singh)
Member (A)

J.P. Sharma
Member (J)