

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1261 of 1995

New Delhi, this the 29th day of June, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

1. Het Ram (claimant for compassionate appointment) s/o Shri Suraj Bhan Sharma, Retd. TXR, Northern Rly., Rewari (Haryana).
2. Suraj Bhan, s/o Shri Hardev, Retd. TXR Northern Railway Rewari (Haryana).

Residential Address of Both Applicants

A-39, Ashok Enclave, Piragarhi Chowk,
Rohtak Road, New Delhi-110041 -APPLICANTS

(By Advocate - None)

Versus

1. Union of India through the General Manager, Northern Railway Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner. -RESPONDENTS

(By Advocate - None)

ORDER

By Mr. N. Sahu, Member (Admnv) -

This case was heard at length on 12.1.1998 and Shri G.D.Bhandari, learned counsel for the applicant and Shri R.L Dhawan, learned counsel for the respondents argued the case extensively. The reliefs claimed by the applicants are as under -

"8.1 order/direct/command the respondents to consider the case of applicant No.2 for compassionate appointment in Gr. 'C' post for which he may be found suitable, based on his educational qualifications etc. Even alternatively, if a Gr. 'C' post is not available at the present, applicant will accept a Gr. 'D' post, subject to review/reconsider of his case for Gr. 'C' appointment in terms of the Railway rules and policy directions issued by the Railway Board from time to time.

8.2 direct/command/order the respondents to make payment of the pension, gratuity, leave encashment, etc., not paid so far to which the applicant is not fully entitled on attaining the age of superannuation.

8.3. direct /command the respondents to make payment of 24% interest p.a. on the delayed payment of the aforesaid amounts from the date of retirement i.e. 31.3.1995 to the date of actual payment, which is all the more justified in view of applicant having lost his right leg while on duty.

8.4. any other relief deemed/fit and proper by this Hon'ble Tribunal may also be granted in the interest of justice in addition to the cost of the case in favour of the applicant."

2. The proceedings dated 12.1.1998 of this court are extracted hereunder -

"Present : Sh. G.D.Bhandari, counsel for applicants

Sh. R.L. Dhawan, counsel for respondents.

Heard.

Learned counsel for respondents has brought to my notice the order of this court dated 06.09.1995 wherein the relief claimed by the applicants under Para 8(1), this Tribunal held that there was no *prima facie* case. With regard to para 8(2), the Tribunal directed that counter and rejoinder be filed. Learned counsel for the applicant has drawn my attention to the MA No.1623/97 wherein he has produced additional material by way of appointment to one Abdul Waheed by an order dated 01.09.1988. Abdul Waheed's father, according to the learned counsel for the applicant, is similarly situated and had been injured while in service and declared incapacitated and recommended for an alternative job. The applicants' case being absolutely similar, the respondents not only did not offer any compassionate appointment but did not even dispose of his father's representation and give a simple reply. Learned counsel for the applicants also states that the observations of this Court in its order dated 06.09.1995 do not conclusively dispose of this claim. He

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states that on merits an employee sustaining injuries while on duty and immediately thereafter superannuated could claim extension of service on that count. He draws my attention further to the recommendation of the medical authorities for an alternative appointment on the ground that applicant would not be fit for the old job. Sh. Dhawan, learned counsel for the respondents states that the order of the court under Para 8(1) must be treated as final disposal and the applicant cannot be heard to reagitate the matter. A Review Petition has not been filed within the prescribed period and the MA filed after two years cannot revive this claim. To this, Sh. Bhandari, learned counsel for the applicant states that the order referred to is an interlocutory order and no review is called for.

With regard to interest, Sh. Dhawan, learned counsel for respondents has brought to my notice a copy of the circular dated 03.07.1979 under which a three months period is claimed to have been allowed. Sh. Dhawan, learned counsel for respondents shall hand-over a copy of this circular to Sh. Bhandari, learned counsel for the applicants. Shri Dhawan, learned counsel for the respondents has been pointed out that a time-table has been laid down in pension cases vide Para 4(2) of the same circular he pointed out and this Court wants to know from him as to whether in the applicants' case, this time-table has been adhered to. He shall file a verified statement in this regard. On this point, adjourned to 19.02.1998 as part heard."

3. On the final date of hearing on 29.5.1998 neither the counsel for the applicants was present nor the information sought for in the above note was furnished. An affidavit of the Divisional Personnel Officer, Bikaner in compliance to the order of this Court dated 12.1.1998 was filed on 1.4.1998. The applicant retired from service on 31.3.1995. Except gratuity and leave encashment, his settlement dues were paid on 3.4.1995. The applicant vacated the

Railway quarter on 21.3.1995 and intimated this fact on 3.4.1995.

4. An accident took place while the applicant was on duty on 26.3.1994. The competent authority decided to compensate the applicant under the Workmen's Compensation Act (hereinafter referred to as 'the WC Act'). Thereafter the payment of gratuity was arranged on 3.11.1995 which also included payment of leave encashment of an amount of Rs.30,240/-. He was separately paid compensation under the WC Act amounting to Rs.38,499/- in December, 1996.

5. There is no justification for the delay in the payment of gratuity and leave encashment as the applicant had vacated the railway quarter much before the due date of retirement and admittedly intimated the same to the respondents. The explanation for the delay is flimsy, untenable and unacceptable. I direct the respondents to pay interest at the rate of 12% from 1.4.1995 to 3.11.1995 for the delay in payment of gratuity and leave encashment within four weeks from the date of receipt of a copy of this order.

6. With regard to the plea of compassionate appointment, the order of the Division Bench on 6.9.1995 that there is no *prima facie* case for the

same is conclusive of the matter and, therefore, this
claim for relief is rejected.

7. The Original Application is partly allowed.
as above. No costs.

Narain Sahu
(N. Sahu) 29.6.98

Member (Admnv)

rkv.