

Central Administrative Tribunal
Principal Bench, N. Delhi.

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OA No. 258/94

New Delhi, this the 8th Day of February, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

1. Parmod Kumar Sharma s/o Ved Ram Sharma
2. Devinder Kumar s/o Shri Mahabir Singh.
3. Hori Lal s/o Shri Ram Swaroop.
4. Vinod Kumar s/o Shri Krishna
5. Rajinder Kumar Sharma s/o Banwari Lal
6. Saiyad Muhibuddeen s/o Sh. Samiuddin.
7. Mohd. Idrish s/o Sh. Mohd. Ali.
8. Nasir Ali s/o Shri Noor Mohd.
9. Lokman Singh s/o Shri Komal Singh
10. Atok Kumar s/o Het Ram
11. Chokhe Lal s/o Shankar Pal
12. Ram Gopal s/o Karan Singh

Mailing address—

Mr. Parmod Kumar, Gaur Bhawan,
Gali No. 39, Sadh Nagar - III,
Palam Colony, New Delhi-45

Applicant

(By advocate : Shri V.P. Sharma)

V E R S U S

Union of India through ,

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Secretary,
Railway Board,
Rail Bhawan,
New Delhi.

Respondents

(By None)

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JUDGEMENT

Shri J. P. Sharma, M(J)

The applicants have alleged themselves the wards of Railway employees who did not take part in the Railway strike of the year 1974 and the employees who alleged to have been deprived from the rewards which was granted to all the Loyal employees.

2. The applicants jointly in this application have prayed that a declaration be made that the applicants are entitled for the consideration for suitable employment in the Railway Department commensurate to the educational qualification of the applicants and further to consider the case of the applicants in the light of the direction issued by C.A.T. Allahabad Bench in OA No. 610/94 in the case of R.C.Gupta and others vs. Union of India & Others.

3. We heard Shri V.P. Sharma counsel for the applicants on admission whether there is a *prima facie* case for entertaining this Application. Firstly we find that applicants have no cause of action at all. They cannot invoke the circular issued by Divisional Operating Superintendent dated 6th June, 1974. This was issued for Bikaner Division on the subject of recognition of meritorious services of staff during general strike 1974. This has given a right to the employees who have rendered outstanding service during the strike of 1974 for rewarding them for having worked during the strike period of 1974 and that as a welfare measure bestowed a benefit on such employees that they can seek employment of some of their sons/daughters/dependents or extension of service/re-employment due to retire within a year after 8th May, 1974 or grant of advance increment or lastly R.D.P. allowances as prescribed, such employees could claim only one benefit. This benefit was available only for that relevant year. If such loyal employees did not seek the benefit or has sought the

benefit and if that has not been allowed then they could assail that grievance at that particular time. It is not open to the wards to claim that benefit which was only to be asserted by such loyal employees at the relevant point of time.

4. There is nothing on record to show that any of such employees have at any point of time during that period have applied in pursuance of that circular dated 6.6.1974 of Bikaner Division and that they have not been granted any of these benefits. If that benefit was not granted to them at that point of time, now, their wards have no cause of action what-so-ever for getting appointment in any of the services under the Railways. The applicants, therefore, have no case at all.

5. The applicant's counsel has fervently argued showing certain cuttings of the newspaper and also that C.A.T. Allahabad Bench has issued a direction to consider the representation of the wards of such railway employees who did not participate in the railway strike of 1974. We have seen that order of the C.A.T. Allahabad Bench dated 21.4.94 in that the Allahabad Bench has given a direction that the representation of such employees submitted by All India SC/ST Railway Employees' Association be considered and disposed of. That is an order per incuriam in as much as no direction can be issued to the respondents in their absence and without calling them as to whether such applicants who filed OA 610/94 has vested right or any right passed on to them for making such representation. There is no provision of making such representation to the wards of the alleged

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employees who did not participate in the strike of 1974. The Hon'ble Supreme Court has deprecated the tendency of back door entry into the service has held in the case of Delhi Development Horticulture Employees Union Vs. Delhi Administration reported in 1992 (21 ATC) Page 386.

6. The circular was issued in 1974 and the applicants after 21 years of time cannot raise the issue. This issue should have been raised by their predecessor-in-interest. Thus the direction issued by the C.A.T. in the case of R. C. Gupta and others vs. UOI & Others has no basis to give the applicants a cause of action as has been indirectly contended in para no. 3 of the application.

7. The application is not maintainable and there is no case at all for admitting the application or/issue any direction to the respondents. The application is, therefore, dismissed under section 19 of the C.A.T. Act, 1985. No costs.

(B.K. SINGH)
MEMBER (A)

(J.P. SHARMA)
MEMBER (J)

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