

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

O.A. NO.2628/1997.

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NEW DELHI, THIS THE 22nd DAY OF JANUARY, 1998.

HON^{BLE} MR. JUSTICE K.M. AGARWAL, CHAIRMAN.

HON^{BLE} MR. R.K. AHDOJA, MEMBER (A).

1. Azad Singh
S/o Shri Parsu Ram
Material Checking Clerk
Working under Inspector of Works,
Northern Railway,
New Delhi.
2. Vishwa Sharan Singh
S/o Shri Raja Singh
Material Checking Clerk
Working under P.W.I.
Northern Railway,
New Delhi

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APPLICANTS.

(By Advocate Shri Anis Suhrawardy)

Vs.

1. Union of India
Through its General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
D.R.M. Office
State Entry Road,
New Delhi

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RESPONDENTS.

ORDER

JUSTICE K.M. AGARWAL, CHAIRMAN.

The learned counsel for the applicants was heard on admission on 6.11.1997 and then further on 22.1.1998 after allowing him to amend the application under Section 19 of the Administrative Tribunals Act, 1985. The order could not be passed on the same day. It is now being
Jon passed.

2. In the amended O.A., following reliefs have been claimed:

- "(i) to promote the applicants as Senior Clerks and include their name in the seniority list of Senior Clerks at appropriate places in the Grade of Rs.1200-2040 (RPS) ANNEXURE A-1 to the Original Application.
- (ii) to command the respondents to grant the applicants the benefit of the past services, for the purposes of seniority, promotion and other consequential benefits;
- (iii) and pass such other and/or further orders as this Learned Tribunal may deem fit and proper in the light of the facts and circumstances of the case."

Earlier to this, they had filed O.A. No.2037/89 along with three others more or less for similar reliefs. That application was dismissed by order dated 27.5.1994 by observing that:

"the only ground advanced in the various paragraphs of the O.A. , is that, adhoc service should be taken into account for reckoning the seniority. We have already held this is not permissible as per present law."

The application is thus barred by the principle of res judicata. However, the learned counsel for the applicants submitted that the nature of reliefs claimed in this application was different from those claimed in the earlier application. The points sought to be urged here were not urged in the earlier O.A. No.2037/89 and, therefore, the earlier judgment would not operate as res judicata. However, we do not agree with the contention.

3. Further, without being promoted to the post of Senior Clerks, the applicants cannot claim inclusion of their names in the seniority list of Senior Clerks and that they cannot be promoted or considered for promotion to that post without reckoning the period of their ad hoc service in the lower post they are presently holding, because the prayer for such computation was rejected in O.A. No.2037/89.

4. Again, the points sought to be urged now could be urged in the earlier O.A.No.2037/89. The cause of action in the present application and that claimed in the earlier O.A. was one and the same and, therefore, on principles akin to those mentioned in sub-rules (2) and (3) of Rule 2 of Order II of the Code of Civil Procedure, 1908, this application is liable to be dismissed. Accordingly it is hereby summarily dismissed.

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(K.M.AGARWAL)
CHAIRMAN

R.K. Ahuja
(R.K.AHUJA)
MEMBER(A)