

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 2215/94

(3)

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)

Nanak Singh s/o Shri Kartar Singh,
r/o T-233/B, Rly. Colony,
Kalka (Haryana).

Applicant.

(By Advocate: Shri Mahesh Srivastava)

Versus

Union of India, service to be effected through:

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Pahar Ganj,
New Delhi.
3. The General Foreman, Diesel,
Northern Railway, Diesel Shed,
Kalka (Haryana).

Respondents

(By Advocate: Shri R.L. Dhawan)

JUDGEMENT (ORAL)

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

The applicant has worked as Diesel Shunter with G.F.O. Diesel, Narrow Gauge, Northern Railway, Kalka (Hr.). The applicant filed this application in September, 1994 that the respondents have not decided his representation dated 7.3.1994 where the applicant has prayed for similar relief which has been

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granted by the Hon'ble Supreme Court of India in identical cases titled as UOI & Ors Vs. R.Redappa and Ors. reported in 1993-LIC-2203). The relief prayed for by the applicant in this case is that the benefit of the judgement dated 5.8.1993 rendered by Hon'ble Supreme Court of India referred to above be granted to the applicant.

2. By the order dated 9th November, 1994 a notice was issued to the respondents to file their reply within four weeks and the matter was ordered to be listed on 21st December, 1994. On 21.12.1994 Shri R.L.Dhawan appears for the respondents and prayed for further time when four weeks further time was allowed and the case was ordered to be listed today.

3. Shri R.L.Dhawan appears on behalf of the respondents and prays for further time to file the reply.

4. We heard the learned counsel for the applicant who submitted that the respondents have not disposed of the representation dated 7.3.1994 and the application be kept pending and the respondents may dispose of the representation in the meantime. In any circumstances the application do lie because the applicant has come after a period of six months from making of the representation i.e. the representation was made on 7.3.1994 and the present application has been filed on 28th September, 1994. However, the matter of the applicant cannot be considered

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simultaneously one by the administration itself and the other for judicial review. The fact that is to be considered in this case is whether the applicant is squarely covered with the decision of the case of Union of India Vs. R. Redappa and Ors. (Supra) or not. If the applicant is fully covered by the Judgement the respondents are bound to grant the relief to the applicant as directed by the Hon'ble Supreme Court of India in the aforesaid Judgement. In that case the Hon'ble Supreme Court has considered the cases of such employees who have participated in the Loco strike of 1980-81. Some of the employees were removed from services by participating in the loco strike under rule 14 (2) of the Railway Servant Appeal Rules, 1968. Under that rule the formalities of proceeding regular enquiry were dispensed with. Such matters were assailed before various Benches of C.A.T. and in some of them the relief was allowed and in other it was not, so the matter has come finally against the Judgement of various Benches of C.A.T. before the Hon'ble Supreme Court of India and that has been considered in the case of Union of India & Ors. Vs. R. Redappa and Ors.

4. On notice the respondents ^{could not} make their mind factually to the position the applicant enjoyed and whether he is covered by the decision of that case it shall not be fair to give a judicial review on a non-action on the part of the respondents.

5. In view of the circumstances, we do not grant any further time to the respondents to file the counter and ~~he~~

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by respondents Council
rightly acceded to the fact that the representation
made by the applicant on 7.3.1994 shall be disposed of
by the respondents. We further add if the representation
made by the applicant is not available with the respondents
then the applicant to make fresh representation alongwith a
copy ^{of} to the earlier representation to the respondents within
a week from the date of this order. The respondents
thereafter shall dispose of this representation within
a period of three months. If the applicant is still
aggrieved by the order, if any, passed by the respondents
on the representation he shall be free to assail that
order, if so advised, by filing a fresh application
taking all the grounds which has been taken by him in
the present application.

L The application, therefore, is ~~dismissed~~ disposed of accordingly
with no order as to costs.

(B.K. SINGH)
MEMBER(A)

J.P. SHARMA
MEMBER(J)

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