

Central Administrative Tribunal
Principal Bench

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D.A. No. 2462/94

New Delhi, this the 14th day of Nov., 1995

Hon'ble Shri B.K. Singh, Member (Administrative)

Shri Gopal Krishan
Retd. Chief Parcel Clerk
Northern Railway
Kurnal
Presently:
r/o A-11/35, village Barabarpur,
Chaji Gate, Gali No. 3,
Shahdara, Delhi-32.

..Applicant

(By Shri B.S. Maine, Advocate)

Versus

Union of India through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

..Respondents

(By Shri Rajesh, Advocate)

O R D E R

delivered by Hon'ble Shri B.K. Singh, Member (A):

This application No. 2462/94 is directed against denial of extension of the benefit of the judgement rendered by this Hon'ble Tribunal on 18.5.1993 in respect of certain colleagues of the applicant who are similarly circumstance as the applicant and whose reduction in pay was restored by the Tribunal and this benefit has been denied to the applicant.

...2p/-

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The admitted facts are that the pay scale of the applicant was reduced in the year 1987. As a result of selection to the post of Chief Parcel Clerk Grade Rs. 455-700, the candidates were placed on panel but the promotion and posting orders were issued subsequently and there was an element of delay involved in this. The vacancies of Chief Parcel Clerk Gr. 455-700 were lying vacant and on the basis of the panel prepared on 19.12.1995 they were promoted and drew the pay scale of Rs. 455-700 since January, 1986 to September, 1986 and from October, 1986 onwards they were brought on revised scale of Rs. 1400-2300/- . The claim of the applicant is that he should be deemed to have been promoted from the date the panel was prepared i.e. on 19.12.1985 and his pay should be fixed accordingly in the pay scale of Rs. 455-700/- and he has wanted the revision in his pay scale as a result of the IVth Pay Commission w.e.f. 1.1.1986 instead of 1.4.1986. Annexure A-9, filed by the applicant at page 41 of the paper book, shows that he has sent a letter to the Divisional Railway Manager, Northern Railway, New Delhi making a request that his pay should be re-fixed in the scale of Rs. 455-700/- i.e. at Rs. 560/- w.e.f. 1.1.1986 and Rs. 1720/- w.e.f. 1.4.1986 on par with his juniors S/Shri P.C. Aggarwal and Mehinder Singh who obtained an order from the Hon'ble Tribunal for re-fixation on their pay. The two dates are crucial in this i.e. re-fixation of the pay in the scale of Rs. 455-700/- and arrears etc. from 1.1.1986 and in the revised pay scale as per recommendation of the IVth Pay Commission at Rs. 1720/- w.e.f. 1.4.1986 in the pay scale of Rs. 1400-2300/- as was allowed by the Tribunal to the juniors which order has been implemented

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by the respondents.

The cause of action and the claim for arrears thus relate back to 1.1.1986 and 1.4.1986. The Hon'ble Supreme Court have categorically laid down the law that judgements and orders of the court in other cases do not give cause of action. The cause of action has to be reckoned from the actual date from which a claim is made. This has been held in case of Bheop Singh v/s. UOI JT 1992 (3) SC 322. Thus, the plea of the applicant that he should be given the benefit of the judgement given by the Tribunal in 1993 cannot hold good in the face of this judgement of Hon'ble Supreme Court.

The second argument that it is a pension matter and, therefore, it is a recurring cause of action, cannot be accepted. The claim is regarding re-fixation of pay in the pay scale of Rs. 1400-2300/- w.e.f. 1.4.86. in the pay scale of Rs. 455-700/- w.e.f. 1.1.1986 and / Unless the pay scale is revised in these two grades, the question of enhancement in pension or commutation will not arise. What is being claimed is actually re-fixation of pay and arrears as a consequence of that re-fixation and the end result may be enhancement of pension but this will flow from re-fixation of pay. Re-fixation of pay and claim of arrears cannot be treated as recurring cause of action. The grievance arose from 1.1.1986 and 1.4.1986. since the claim for re-fixation goes back to these two crucial dates, Pension is not sought involved in the relief/for. The pension may be an end result if the plea of re-fixation is accepted as stated above. The judgement of the Tribunal in case of P.C. Aggarwal and Mohinder Singh cannot give rise to a cause of action or a grievance. This application is hit by delay and laches. This Tribunal is not vested with

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unlimited powers in regard to condonation of delay. The period of limitation would be one year if no representation/appeal has been filed and 1½ years if an appeal/representation has been filed as has been held by the Hon'ble Supreme Court in case of S.S.Rathore V/s. State of Madhya Pradesh (AIR 1990(1) SC P.10; State of Punjab V/s. Gurdev Singh (1991(4) SCC 1); U.O.I V/s. Ratan Chand Samanta (JT1993(3) SC 418; and also in case of Ex-captain Harish Uppal V/s. UOI (JT 1994(3)p.126. The view expressed by the Hon'ble Supreme Court is that the court should decline to interfere with an order if the aggrieved party has not approached the court within the statutory period. The court after the expiry of the statutory period, cannot grant the relief prayed for. In the case of UOI V/s. Ratan Chand Samantha (Supra), the Hon'ble Supreme Court has said that delay defeats the remedy available and if the remedy is lost the right is also lost alongwith it. Delay defeats equity and valuable right accrues to an adversary. If a person chooses to slumber over his right, the court should decline to interfere. The Hon'ble Supreme Court has categorically laid down the law that court should help those who are vigilant and not those who are indolent. The Hon'ble Supreme Court in one of the latest judgements given by a larger Bench of the Hon'ble Supreme Court in case of Secretary to the Govt. of India V/s. Sivaram Mahadev Giakwad (1995)ATC 635, has said that the CAT Act provides for limitation as indicated in Section 21 and if a petition for condonation of delay is filed, the Tribunal has to apply its mind and record cogent reasons for granting the exemption from this period of limitation and the grounds must be substantial and solid before an exemption can be

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granted. Unfortunately, in the instance case even a M.A. for condonation of delay has not been filed. In the case quoted above, the plea that was taken before the Tribunal was that the applicant was suffering from schizophrenia. The Hon'ble Supreme Court said that the same could have been highlighted in a Misc. Petition. In the instant case, no M.A. has been filed by the applicant for condonation of delay, and therefore, in view of the decision of the Larger Bench of the Hon'ble Supreme Court, it would be difficult to condone the delay involved and therefore going by the ratio of the various rulings of the Hon'ble Supreme Court as indicated above which has also been endorsed by the Larger Bench comprising Hon'ble Mr. Justice A. M. Ahmadi, Hon'ble Mr. Justice M. M. Punchhi and Hon'ble Mr. Justice N. P. Singh, this court is not competent to grant any exemption from the limitation that has been prescribed under Section 21 of the A.T. Act, 1985. The application is dismissed as hit by delay and laches but without any order as to costs and without going into the merits of the case.

(B.K.SINGH)
Member (A)

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