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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.774/94

NEW DELHI THIS THE 25th DAY OF JULY, 1994.

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

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

1. K.C. Sharma s/o Late Pt. Uma Dutta Sharma
aged 66 years,
Retd. Guard 'A' Spl.,
N. Railway, Bikaner Division,
Headquarters. Sarai Rohilla,
Delhi
Resident of: H-52, Sector-23,
Raj Nagar, Ghaziabad (U.P.)
2. B.D. Malhotra s/o Late Ram Lal Malhotra
aged 64 years,
Retd. Guard 'A' Spl.,
Northern Railway, Bikaner Divn.
Headquarters- Sarai Rohilla, Delhi
Resident of : MIG Flat No. D-1C/117,
Sector-7, Rohini,
New Delhi-110085.
3. S.C. Suri s/o Late Kundan Lal
aged 63 years,
Retd. Guard 'A' Special,
Northern Railway, Bikaner Divn.,
Headquarters- Sarai Rohilla, Delhi
Resident of : S-H/96, Shastri Nagar,
Ghaziabad (U.P.)
4. Smt. Ved Wati ^{L/R of} wife of/ Late Achal Singh Nagar,
aged Retired Guard 'A',
Northern Railway, Bikaner Division,
Headquarters- Sarai Rohilla, Delhi
Resident of: Village -
P.O. Ballabgarh, Distt. Faridabad (Haryana).
5. Smt. Vimal Sharma
widow of, L/R Late Laxmi Narain, Sharma,
Retired Guard 'A', Northern Railway,
Delhi Division, Headquarters: Delhi
Resident of: H. No. 167/7, Fly. Colony,
Kishanganj, Delhi.
6. Smt. Raj Bhardwaj
widow of, L/R of Late R.K. Bhardwaj,
Retired Guard 'A', Northern Railway,
Delhi Division, Headquarters, New Delhi
Resident of: H. No. 21/1, Fly. Colony
Kishanganj, Delhi.

7. Smt. Santosh Sharma
widow, L/R of Late Shanti Saroop Sharma,
Retired Guard 'A', Northern Railway,
Bikaner Division, Headquarters-Rewari,
Resident of :
Rewari, Haryana.

8. Smt. Savitri Devi
Widow of/L.R. of Late Rati Ram
Retired Guard 'A', Northern Railway,
Bikaner Division, Hd. Qrs. Rewari

9. *Prakash*
Nand ~~Lal~~ Sharma
s/o Late Shiva Parsad *DRIVER*
Aged 64 years, Retired ~~Guard~~ 'A'
Northern Railway, Bikaner Division,
H. Qr. Sarai Rohilla, Delhi.

10. Dhanpat Singh s/o Late Vijay Singh
aged about 67 years.,
Retired Driver 'A', Northern Railway,
Bikaner Division, Hd. Qrs. Sarai Rohilla,
Delhi.

11. Arjan s/o Shiv Shankar
aged
Retired Driver 'C'
Northern Railway, Bikaner Division,
Headquarters-Sarai Rohilla,
Delhi.

12. Jetha Nand s/o Late Ram Chand
aged about 68 years.
Retd. Driver 'B', Shakurbasti,
Northern Railway, Delhi

13. K.C. Grover s/o Late Desu Ram
aged 67 years,
Retired Guard 'A', N. Rly.,
Bikaner Division, HD. QR. Sarai Rohilla,
Delhi.

14. Sat Pal s/o Late Dina Nath
aged about 65 years,
Retired Driver 'A', Locoshed,
Northern Rly, Delhi Division,
Hd. Qr. Delhi.

15. Om Prakash s/o Late Shola Nath
aged 68 years,
Retired Guard 'A',
N. Rly., Ratangarh, Bikaner Division,
Hd. Qrs. Ratangarh.

- 16. Rameshwar Nath Sharma s/o Late Ram Prakash
Aged 64 years,
Retired Guard 'A', N. Rly.,
Headquarters, Sarai Rohilla,
Delhi.
- 17. Gopal Dass s/o Late Dewan Chand Sharma
aged about 69 years,
Retired Driver 'B', N. Rly.,
Shakurbasti, Headquarters, Delhi.
- 18. Shanti Swarup s/o Late Pt. Yad Ram
aged about 69 years,
Retired Guard 'A', N. Railway,
Bikaner Division, HQ-Sarai Rohilla,
Delhi.
- 19. Mohan Lal s/o Late Bachhu
aged about 69 years,
Retired Loco Shunter,
Northern Railway, Delhi Divn.,
Headquarters, Delhi.
- 20. Harcharan Singh s/o Late Mool Singh
Aged about 69 years.,
Retired Guard 'A',
Northern Railway, Bikaner Division,
Headquarters - Sarsa.
- 21. Hari Singh s/o Late Laxman Singh
aged about 65 years,
Retired Driver 'A',
Northern Railway, Bikaner Divn.,
Headquarters, Rewari.
- 22. Chander Singh s/o Late Bahadur Singh
Aged about 65 years.,
Retired Driver 'A' Spl.,
Northern Railway, Bikaner Div.
Rewari.
- 23. Raghunath Singh s/o Late Harnam Singh
aged about 67 years.,
Retired Driver 'C',
N. Rly., Bikaner Division,
Headquarters-Sarai Rohilla,
Delhi.
- 24. Munshi Ram s/o Late Hazari Lal
aged 65 years.,
Retired Guard 'A',
Northern Railway, Bikaner
Headquarters-Rewari.

- 25. Kali Charan s/o Late Panna Lal
aged about 63 years.,
Retired Guard 'A'
N. Railway, Bikaner Division,
Headquarters-Churu.
- 26. Radhey Lal Gupta s/o Late Hari Ram Gupta
aged about 69 years,
Retired Guard 'A'/Northern Railway,
-Bikaner Division,
Headquarters-Rewari.
- 27. Ram Kishore Gupta s/o Late Ramji Lal Gupta
aged about 70 years,
Retired Guard 'A', Special,
Northern Railway, Bikaner Division,
Headquarters-Rewari.
- 28. D. S. Malik s/o Ram Prakash Malik
aged about 66 years,
Retired Guard 'A', Northern Railway,
Bikaner Division,
Headquarters-Rewari.
- a 29. Smt. SARJA Devi
Widow of /L.R. Late Bhim Singh
Retired Guard 'A',
Northern Railway, Bikaner Division,
Headquarters-Rewari.
- 30. Balbir Singh Sharma s/o Late Parmanand,
aged about 65 years,
Retired Guard 'A' Spl.,
Northern Railway, Bikaner Division,
Headquarters-Rewari.
- 31. Chandgi Lal Sharma s/o Late Daulat Ram
aged 72 years,
Retired Guard 'A', Spl.,
Northern Railway, Bikaner Division,
Headquarters-Rewari.
- 32. Hari Har Swarup Sharma s/o Dal Mukand
aged about
Retired Guard 'A' Spl.,
Northern Railway, Bikaner Division,
Headquarters-Rewari.
- 33. Ram Swarup Saini s/o Khairati Lal Saini
Aged about 69 years
Retired Driver 'A', Spl. Northern Ry.,
Bikaner Division, H. O. Rewari.

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34. Balwant Singh s/o Sohan Lal
aged 65 years, Retired Driver 'A',
Northern Railway,
Bikaner Division,
Hd. Qrs. Rewari.
35. Nehal Chand s/o Late Bihari Lal
aged about 63 years.,
Retired Guard 'A',
Northern Railway, Bikaner Division,
Headquarters- Sarai Rohilla, Delhi.
36. Kirori Lal s/o Shadi Lal
aged about 63 years.,
Retired Loco Shunter 'B',
Northern Railway, Bikaner Division,
Headquarters- Rewari.
37. Ram Murti s/o Late Phoosa Ram
aged about 75 years,
Retired Driver 'A' Spl.,
Bikaner Division, Hd. Qrs. Rewari.
38. Rang Lal s/o Nar Singh
aged about 68 years,
Retired Driver 'A',
Northern Railway, Bikaner Division,
Headquarters- Rewari.
39. Kishan Chand son of Motu Ram
aged about 65 years,
Retired Driver 'A',
Northern Railway, Bikaner Division,
Sarai Rohilla, Delhi.
40. Sunder Lal s/o Late Chhotey Lal
aged about 72 years,
Retired Guard 'C', N. Rly.,
Bikaner Division, Hd. Qrs. Rewari.
41. Lashkari Ram Mangar s/o Late Amir Chand
aged about 72 years.,
Retired Guard 'B',
Northern Railway,
Bikaner Division, Hd. Qrs. Rewari
42. Lилоo s/o Bate Shiv sahai
aged about 72 years,
Retired Driver 'A', N. Rly.,
Bikaner Division,
Hd. Qrs., Rewari.

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43. Shiam Lal Vashishtha s/o Late Bakhtawar Singh
Aged about 65 years,
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division,
Hd. Qrs. Rewari.

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44. Ram Gopal K. s/o Late Khushi Ram
aged 67 years
Retired Driver 'C'
Northern Railway, Bikaner Division,
Headquarters - Rewari.

45. Lakh Raj son of Honda Ram
aged about 65 years.,
Retired Driver 'A'
Northern Railway, Bikaner Divn.
Hd. Qrs. Rewari.

46. Ghan Shiam Singh s/o Late Ram Chander
aged about 65 years.
Retired Driver 'B',
N. Rly., Bikaner Division,
Hd. Qr. Rewari.

47. Udai Ram s/o Late Bhom Singh
aged about 64 years
Retd. Driver 'B',
Northern Railway, Bikaner Div.
Hd. Qr. Rewari.

48. Munshi Ram s/o Mai Lal
aged about 69 years
Retired Guard 'A'
Northern Railway, Bikaner Div.
Hd. Qr. Rewari.

49. Hari Ram s/o Manohar Lal
aged about 66 years,
Retired Driver 'C'
Northern Railway, Bikaner Division,
Hd. Qr. Churu.

50. Baldeo Raj s/o Fateh Chand
aged about 63 years.,
Retired Driver 'A',
Northern Railway, Bikaner Division,
Hd. Qr. Sarai Rohilla, Delhi.

51. Kishan Lal 'C' s/o Chunni Lal
aged about 66 years
Retired Driver 'A' Spl.
N. Rly. Bikaner Div.
Hd. Qr. Rewari

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52. Ram Lal 'D' son of Dayal Chand
aged about 65 years
Retired Driver 'B'
Northern Railway, Bikaner Division,
Headquarters- Suratgarh.
53. Man Mohan Kaul s/o Late Ratan Lal Kaul
aged about 66 years,
Retired Guard 'A' Spl.
N. Rly. Bikaner Division
Hd. Qr. Suratgarh.
54. Surendar Mohan Singhal s/o Late Kundan Lal
aged about 65 years.
Retired Guard 'A' Spl.
N. Rly. Bikaner Division,
Hd. Qrs. Suratgarh.
55. Nathu Singh s/o Mulia
aged about 68 years
Retired Brakesman Guard-II
N. Rly., Bikaner Division,
Hd. Qrs. Rewari.
56. Laxmi Narain s/o Late Budha
aged about 67 years
Retired Driver 'A' Spl.
Northern Railway, Bikaner Div.
Hd. Qr. Rewari.
57. Shri Kishan s/o Late Nanak Chand
aged about 67 years.
Retired Guard 'A'
N. Rly., Bikaner Division,
Headquarters- Hanumangarh.
58. ~~Modan~~ Lal 'K' s/o ~~Beni Farshad~~ Khuli Ram,
aged about 66 years
Retired Driver 'C', N. Rly.,
Bikaner Division,
Hd. Qr. Rewari.
59. Nand Kishore son of Beni Farshad
aged about 66 years.
Retired Driver 'C', N. Rly.,
Bikaner Division,
Hd. Qr. Rewari
60. Shafi Mohammad s/o Jamaluddin
aged about 65 years
Retired Driver 'A' Spl. N. Rly.,
Bikaner Division, HQ. Churu

- 61. Yog Dhian s/o Late Chandra Bhan
aged about 65 years
Retired Guard 'A' N.Rly.,
Delhi Division-Hd. Qrs. Ghaziabad.
- 62. Med Singh son of Late Vijay Singh
aged about 68 years
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division,
Hd. Qrs. Rawari.
- 63. Mool Chand K. Verma s/o Late Khushi Ram
aged about 66 years
Retired Guard 'A' Spl.
Western Railway, Division Botad,
Hd. Qr. B.V. Para.
- 64. Beni Singh Sharma s/o Bihari Lal Sharma
aged about 67 years,
Retired Guard 'A'
Western Railway, Ajmer Division,
Hd. Qr. ABU ROAD.
- 65. Ranji Das Sikka s/o Late Guru Datta Mal
aged about 76 years,
Retired Guard 'B'
Western Railway, Baroda Division,
Hd. Qrs. Dhaboi.
- 66. Khem Chand Gera son of Late Bhagwan Das
aged about 71 years,
Retired Guard 'B'
Western Railway, Baroda Division,
Hd. Qrs. Dhaboi.
- 67. Triloki Nath Sardana s/o Rikhi Chand
Aged about 64 years,
Retired Guard 'A', Western Rly.,
Ajmer Division, Hd. Qr. Udaipur.
- 68. R.K. Malhotra s/o Late ^{Balraj Ram} ~~Bal Kishan~~ Malhotra
aged about 68 years
Retired Guard 'A'
Western Railway, Jaipur Divn.
Hd. Qr. Jaipur.

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- 69. R.R. Kalota s/o *Chakraborty*
aged about 65 years
Retired Guard 'A', Western Railway,
Jaipur Division,
Hd. Qr. Jaipur.
- 70. Manohar Lal s/o Late Sonu Ram
Aged about 66 years,
Retired Guard 'A' Spl.
Northern Railway, Bikaner Division,
Headquarters, Rewari.
- 71. N.N. Mullick s/o Late Govind^{Ram} aged 64,
Retd. Guard 'A' Spl. N.Rly.
Muradabad Division HQR M.B.
- 72. Suraj wati w/o/LR Jai-Narain Yadav
Retired Guard 'A' Bikaner Division
HQR. Churu.

....APPLICANTS.

(By Advocate :Shri V.K. Sharma)
Versus.

- 1. The, Union of India,
through chairman,
Railway Board,
Ministry of Railways,
Rail Bhawan
New Delhi.
- 2. The, General Manager,
Northern Railway,
Headquarters Office, Baroda House,
New Delhi.
- 3. The, General Manager, Headquarter Office
Church Gate,
Bombay.

(By Advocate : None)

.....RESPONDENTS.

JUDGEMENT (ORAL)

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

Shri K.C. Sharma along with 72 others who had at one time served in the Northern Railway and retired as guards between 1980 to 1988 have filed this application in April, 1994, solely on the basis that Central Administrative Tribunal, Ernakulam Bench has delivered the judgement which ^{was} affirmed by the Full Bench in 1993. The applicants were not parties to that judgement but their contention is that similar and identical situation is arising in their cases

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in as much as the benefit given to the running staff of railways should also be granted to them. The applicants therefore, prayed for the grant of the relief that a direction be issued to the respondents that they should be given the benefit which has been allowed to the petitioner in the case of Shri CL Mullik & others and by the Judgement of Full Bench in December, 93 of Bangalore Bench. They have also sought a declaration that the applicants in this case are entitled to the benefits of inclusion of running allowance drawn by them before their superannuation in terms of rule 2544 of the Indian Railways Establishment Manual for the purpose of fixation of pension and the applicants be repaid arrears falling due after re-fixation of their pension along with interest. We have given considerable thought to the contentions placed before us by the learned counsel for the Applicant, Shri V.K. Sharma, and have perused various averments made in the application. We have no two opinions that alike should be treated in a like manner. The difficulty before us, however, remains that one who does not come at a proper time cannot derive benefit which have been awarded to ~~those~~ those who were vigilant and sought judicial review while in service or immediately after retirement. In fact, a judgement never gives a cause of action, if the perception of the learned counsel is accepted then if judgement is coming years' after superannuation of the employees from the service, he and naturally his legal heirs, who are beneficiaries ^{potential} as / family pensioners or otherwise, may also claim that benefit. That cannot be the state of the law. A judgement is prospective in operation. In the case

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of State of Punjab Vs Gurdev Singh, 1991(4) SCC P.1 also considered the various judgements delivered by Punjab and Haryana High Court & the Hon'ble Supreme Court held that persons who are aggrieved should seek declaration within the statutory period of limitation provided in the Act. Even a void order, as such an order is good an order unless Superior Court quashes the same. The case is covered by the decision of Hon'ble S.C. in CA 897/87 D. on 25.4.91 Union of India Vs A.I.S Pensioners Assn, where the relief was disallowed of enhancement pension as barred by time & delay.

2. In the case of Full Bench, of course, in December, 1993 has decided that the running allowance paid to certain staffs to perform their duties as Guard or in the similar capacity are entitled to the benefit of their retirement upto the maximum of 75% while fixing their pension. The pension, of course, is not a bounty or a charity but it is hard earned money by employees by putting a length of service in his career. The claim, therefore, should not be lightly washed out. But the difficulty is that a judgement will never give a cause of action, delay defeats the right when it is not enforceable and right is defeated. We, therefore, find that the present application is hit by the limitation and also because retiree of one year i.e. who retired in 1980 have wrongly joined with those who retired in 1988. Thus, their cases are different.

3. MP 996/94, cannot be allowed as the persons have retired on different dates. And MP 1605/94 is for amendment of the petition. The learned counsel for the applicant should have referred to this M.A. foremost, before arguing the case for admission.

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In any case, since we have held that the application is not within in time, amendment sought for, therefore, on certain factual aspects, will not be necessary. We are not touching the merit of the matter. M.A.1605/94 is, therefore, dismissed.

4. M.A.1606/94 is for condonation of delay.

5. We have considered this M.A., where the main issue raised is that the applicants are retiree and, they are settled at various places and could not remain in touch with the service conditions prevailing thereafter and the benefit which has been given regarding grant of pensions either by the respondents' administration directly or on a direction by a Court. It is said that the applicants only learnt their pension has correctly been fixed but after the judgement they learnt that those who similarly placed had^{retired} after them have been given the benefit while the applicants, because of no direction available, at the relevant time by the Court have been fixed less and getting lesser pension. A person who is indolent cannot compare himself with the vigilant one. An indolent has always to suffer whether in service or out of service. There should be reasonable and probable cause for not approaching the judicial forum well in time. Limitation gives a valuable right to an adversory which has to be withdrawn when benefit has to be given to the applicants. we are, aware of the authority of the Hon'ble Supreme Court reported in A.I.R. 1987 SC V.P.1356. Additional Collector, Anant Nag Versus Kataji, a land

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Acquisition Collector, has directed that the meritorious claim should not be allowed to be defeated on the technical point of limitation. We are, at least liberal and magnanimous in taking extreme sympathetic view of the matter. The persons who retired in 1980 cannot have a cause on the basis of decision decided in December 1993 nor that can be said to be probable cause. If we take a sufficient cause then the statute of limitation shall stand repealed for all time to come and every person can claim benefit on the ground that the law declared by the Court shall apply to his years after his retirement. That cannot be taken to be a reasonable and probable cause for likely condonation of delay.

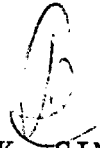
6. We have also gone through the decision of the Hon'ble Supreme Court in the case of Krishna Kumar, Ors vs Union of India reported in JT 1993 Vol.3 P-173. We have also gone through the decision of the Hon'ble Supreme Court in the case of S.C. Nakara & Ors reported in 1983(3) SCR P-165. All these cases have been referred to in the case of All India Reserve Bank Association and Others Vs Union of India & Ors reported in JT 1991 Vol.6 SC P-400. In this case, service benefits were given to the retirees in substitute of CSR scheme and 31 December, 1985 was fixed a cut off date. The Bank employees agitated the matter who retired prior to that. The Hon'ble Supreme Court considered the matter at greater length and dismissed the appeal quashing the order of the Tribunal. In the present case, applicants have sought condonation only on the ground that they naturally could not be aware of a decision of the Full Bench in December, 93 as they stood retired between the period 1980-88 and settled elsewhere. We, therefore, find that there is no

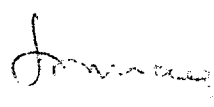
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reasonable and probable cause and no other point has been pressed in either of the M.A.996/94 & 997/94.

7. We have already held above that the present case does not make out a prima facie case for admission and, therefore, we reject Original Application No.774/94, summarily.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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