

Central Administrative Tribunal
Principal Bench

O. A. No. 847 of 2000

New Delhi, dated this the 29th JANUARY 2002

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHAKER RAJU, MEMBER (J)

1. Retd. Railway Drivers Association,
Northern Railway, G-80A, Sector 9,
New Vijay Nagar, Ghaziabad,
U.P.
2. Sri Nawal Kishore,
Secretary,
Retd. Railway Drivers Association,
Northern Railway, G-80A, Sector 9,
New Vijay Nagar, Ghaziabad,
U.P.
3. Sohan Lal
Moradabad.
4. Bal Govind
Moradabad
5. Ram Autar Gupta
Moradabad
6. Ram Singh
Moradabad
7. Gopi Singh Baghel
Moradabad
8. Kedar Nath
Moradabad
9. Dharam Pal Rana
Moradabad
10. Pop Singh
Moradabad

11. Nau Singh Sharma
Patel Nagar Hasthala Railway Colony
Moradabad.

12. Grish Kumar
Banbata Ganj Moradabad.

13. Trilok Chand
House No.A/7
Gali No.1 Azad Nagar
Moradabad.

14. Chaturbhuj Singh
C/o A.M. Kapoor
House No.28, Azad Nagar,
Hasthala Railway Colony
Moradabad.

15. Darshan Singh
House No.8 Gali No.1/B
Krishna Colony
Chander Nagar, Moradabad.

16. Tirath Singh
Gali No.2 Srikishan Colony
Chander Nagar, Moradabad.

17. Kishan Kumar Sharma,
Railway Hasthala Colony
Chander Nagar,
Near Hari Singh Temple
(Flour Mills of Santosh)
Moradabad.

18. Heera Lall Sharma
Near Wine-shop
Khushalpur Moradabad.

19. Leela Dhar Pal
C/o Bharat Sharma
Railway Hasthala Colony
House No.46, Azad Nagar
Moradabad.

20. Anand Mohan Kapoor
28, Azad Nagar
Hasthala Railway Colony
Moradabad.

21. Narindra Singh
Court Road
Opp. Cooperative Bank
Moradabad.

22. Ram Prakash Pathak
Village Bhogpur Mithoni
Near Hasthala Railway Colony
Moradabad.

23. Ramesh Chander
C/o A.M. Kapoor
House No.28 Azad Nagar,
Hasthala Railway Colony
Moradabad.

24. Sri Sudarshan Jha
181/C Gangotri Nagar,
Line Par Moradabad.

25. Sri Chandeshwar Singh
Near Lekh Raj Shiv Mandir
Chander Nagar
Moradabad.

26. Krishan Lal

27. Sri Kishan

28. B.K. Zutshi.

29. Ram Prakash

30. Balram Behari.

31. Sham Sunder Lall

32. Kundan Lal.

33. Rattan Chand

34. Atam Prakash

35. Om Prakash.

36. Bhim Singh Chopra

37. Bankey Lal

38. Kashmiri Lall

39. Gurcharan Singh

40. Prem Shanker Lall

41. Badri Nath,

42. Surjit Singh.

43. Rajesh Singh.

44. Veer Singh

45. Sri Ram Singh

46. Vijay Singh

47. Pooran Singh

48. Lekhraj

49. Dhanpat Rai

50. Jamwant Singh
51. Dharm Pal
52. Kalyan Singh
53. Kulwant Singh
54. Prem Lal
55. Ajeet Singh
56. Gurbax Singh
57. Mathan Singh
58. Ram Bhewan
59. Bhushan Lal Gandhi
60. Krishna Nand Mishra.

Applicants No.3 to 60 are
 C/o Retired Railway Drivers Association
 North Railway, Ghaziabad, U.P.
 G-80A, Sector-9, New Vijay Nagar,
 Ghaziabad.

..APPLICANTS

VERSUS

1. Union of India
 Through the Chairman
 Railway Board,
 Rail Bhawan
 New Delhi-110001
2. General Manager,
 Northern Railway
 Baroda House,
 New Delhi-110001

..Respondents

(By Advocates: Shri J.M. Khanna for applicants
 Shri B.L. Dhawan for respondents

ORDER

S. R. ADIGE, VC (A)

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Applicants impugn Notifications No. GSR 1143 (E) and GSR 1144 (E) both dated 5.12.88, as being violative of Article 14 of the Constitution, in so far as it gives retrospectivity to Rule 2544 IREC Vol. II from 1.1.73 and 1.4.79 and they seek extension of the judgment and observations of the Hon'ble Supreme Court in the case of Chairman, Railway Board Vs. C.R. Rangadhamaiyah & others 1997 (2) SCSLJ 368 to themselves and others who joined prior to 5.12.88 but retired subsequent to that.

2. Heard both sides.

3. Applicants admit that they are identically placed as those in O.A. No. 2856/99 who had prayed for substantially the same relief in O.A. No. 2856/99, which was dismissed by the Tribunal vide order dated 10.12.2001.

4. During arguments applicants' counsel Shri J.M. Khanna contended that the aforesaid order dated 10.12.2001 was an ex-parte order in which the Bench did not have the assistance of the counsel for applicants. He asserted that in O.A. No. 2856/99 those applicants had challenged only the retrospectivity given to Rule 2544 IREC Vol. II ~~from~~ and not the Rule itself, which was being challenged in the present O.A. ^{and which} he contended, was illegal and arbitrary. In this connection it was contended by him that the Notifications dated 5.12.88, even after

the pronouncement of judgment in Rangadhamaiah's case.

(supra) made an arbitrary and illegal distinction between those who retired prior to 5.12.88 and those who retired thereafter.

5. We have considered the matter carefully.

6. We note that in the relief paragraph, applicants in the present O.A., have also impugned the two Notifications dated 5.12.88 in so far as it gives retrospectivity to Rule 2544 IREC Vol. I, and not the Rule itself. Hence the challenge in the present O.A. is no different from what was challenged in O.A. No. 2856/99, which challenge as pointed out above, was dismissed by order dated 10.12.2001.

7. That apart, we note that the CAT, (Full) Bangalore Bench in O.A. No. 570/90 C.R. Rangadhamaiah & 717 others Vs. Chairman, Railway Board decided on 16.12.93 reproduced in Full Bench Judgments of CAT 1991-94 Vol. III Bahri Brothers, Delhi had struck down the impugned Notification making amendments to Rule 2544 IREC Vol. II to the extent, that it gave retrospective effect, but prospective effect of the amendments remain unaffected. In other words the amendment to Rule 2544 IREC Vol. II by impugned Notifications dated 5.12.88 were applicable to all those who retired from 5.12.88 onwards. This order of CAT (Full) Bangalore Bench dated 16.12.93 was affirmed by the Hon'ble Supreme Court in their judgment dated 25.7.97 in Civil Appeal No. 4174-82/95 etc reproduced in 1997

(2) SCSLJ 368, wherein it has been held that the Notifications dated 5.12.88 reducing the pension payable to employees who retired on the date of such Notifications, in so far as they have been given retrospective effect were violative of the Constitution, but in Para 26 of the aforesaid judgment the Hon'ble Supreme Court made it clear that these amendments were not restricted in their application in the future and would apply to employees who had already retired and were no longer in service on the date the impugned Notifications were issued.

8. As applicants admittedly had already retired and were no longer in service on the date when the impugned Notifications were issued, manifestly their claims are squarely hit by the aforesaid ruling of the CAT (Full) Bangalore Bench which has been upheld by the Hon'ble Supreme Court in Rangadhamaiyah's case (supra).

9. It is not now open to applicants in the present O.A. to contend that the question before CAT (Full) Bangalore Bench, and subsequently before the Hon'ble Supreme Court in Rangadhamaiyah's case (supra), was only the retrospectivity of the impugned Notifications dated 5.12.88 amending Rule 2544 IREC Vol. II, and not the vires of the Rule itself. It is, therefore, not open to this Bench to adjudicate on the vires of Rule 2544 IREC Vol. II because

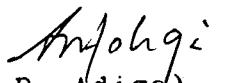
(29)

any such action on our part would be clearly subversive of judicial discipline. The Hon'ble Supreme Court's ruling in C.R. Rangadhamaiyah's case (supra) has declared the law on the subject which is absolutely binding upon us under Article 141 of the Constitution.

10. In the result, for the reasons discussed above the O.A. is dismissed. No costs.



(Shanker Raju)
Member (J)


(S.R. Adige)
Vice Chairman (A)

karthik