

16

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...
DA-659 of 1990

Dated at New Delhi, this the 12th day of July, 1994

Hon'ble Shri J. P. Sharma, Member (J)
Hon'ble Shri B. K. Singh, Member (A)

1. Shri M. L. Bhargava
R/o A-39, Anand Vihar
DELHI-92
2. Shri B. D. Bhatia
R/o B-122, Anand Vihar
DELHI-92
3. Shri K. Sankaranarayan Iyer
R/o A-139, Anand Vihar
DELHI
4. Shri Nama Ram
R/o D-190, Anand Vihar
DELHI-92
5. Shri D. G. Khankojee
R/o 22, Anand Van
A-6 Paschim Vihar
NEW DELHI-63
6. Shri R. K. Sethi
R/o WZ-64/1/S.P. Mukherjee Park
Tilak Nagar
NEW DELHI-18

... Applicants

By Advocate: Shri K. N. R. Pillai
VERSUS

Union of India through

1. The Secretary
Department of Personnel & Training
NEW DELHI
2. The Secretary
Ministry of Railways
(Railway Board)
NEW DELHI

... Respondents

By Advocate: Shri O.P. Kshatriya

B R D E R
(Oral)

Shri J. P. Sharma, M(J)

All these six applicants have jointly filed this application against the guidelines on Departmental Promotion Committee issued by Department of Personnel and Training through its O.M. No. 22011/5/86-Estt.(D) dated 10.4.89 (Annexure A-I) and also

Contd...2

17

against order No.ERBI/82/10/33 dated 29.5.85

(Annexure A-II) issued by the Ministry of Railways (Railway Board) by which the applicants were promoted as Section Officers and their pay was ordered to be fixed on proforma basis, but arrears due were denied to them.

2. The reliefs claimed by the applicants are: (a) for quashing of the orders of the Department of Personnel and Training with respect to Departmental Promotion Committee and thereafter rectify mistakes; (b) Further to direct modification of the order of the Railway Board dated 29.5.85 that the applicants be granted promotion ~~with~~ arrears of pay and allowances and all other consequential benefits from the date of their proforma promotion. (c) It is also prayed that one additional increment as per extant rules on completion of 3 years service from the date of promotion as modified as per (b) above and arrears of pay and allowances worked out on this basis, and (d) They have also prayed for pension and other retirement benefits on this account.

3. The respondents contested this application on a number of grounds. They have taken the plea on limitation that the application is barred by delay and laches. When we heard the case on the earlier sitting, it was pointed out that OA.1781/89 was filed by Shri S. K. Venkatachalam against U.O.I. & Ors in

which also order dated 29.5.85 issued by Ministry of Railways was challenged. The relief claimed in that OA.1781/89 is also for payment of salary and other allowances from 30.6.80, grant of one additional increment as per extant Rules on completion of 3 years' service in the grade and grant of post-retirement I Class 'A' Free Passes. That OA has been decided by a Division Bench of the Principal Bench vide order dated 15th April, 1994. The reliefs claimed by the applicant in that case was disallowed holding that the case has no merit even without adverting to the question of limitation which was still reserved for consideration at the stage of final hearing.

4. Shri Pillai commenced the arguments and rightfully stated that the issue in the case of S. K. Venkatachalam (supra) is also same as in the present application (OA.65/90). He has also conceded the fact that he had earlier requested before the Bench that the case be disposed of along with earlier case i.e. OA.1781/89, the pleadings of which were complete. However, he had certain reservation regarding decision arrived at by the Division Bench in O.A.1781/89 decided on 15.4.94. ^{Since then} three months ~~passed~~. It is not the case of the applicant that he preferred S.L.P. in the Hon'ble Supreme Court nor

(K)

there is a mention that any review petition is filed for that purpose. That order for all purposes is final. As a Division Bench of same jurisdiction, judicial propriety commands that if we agree with the judgement, we have to follow the same and in any case we differ the matter has to be referred to the larger Bench. After going through the record of the case and hearing the arguments advanced by the learned counsel for the respondents, Shri Khatriya, we are in full agreement with the ratio of that judgement (In OA.1781/89) and also that the present application is hit by limitation. The applicants who had been in the Railway service and have quitted the service long ago, are assailing an order of 1985. The application, therefore, is barred by delay and laches and also is totally devoid of merit.

5. In view of the above facts and circumstances, we dispose of the present application on the ratio on the decision in OA.1781/89 decided on 15.4.89, a copy of which is placed on record. Para-8 (last para) of the said OA is adopted as judgement in this case also which is reproduced below:

"In the circumstances, we are of the view that this application has no merit and, therefore, without advertting to the question of limitation, which was also a point reserved for consideration at the stage of final hearing, we find no merit in this OA and accordingly, it is dismissed."


Contd...5

le


20

6. There will be no order as to costs.

Case file of OA.1781/89 be returned.


(B. K. Singh)
Member(A)

dbc


(J. P. Sharma)
Member(J)