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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Date of decision:- 12-5-2012

(1) OA No.1862/91

Miss Meena Kumari Anand **Applicants**
&ors. **versus**

Union of India through
Secretary,
Ministry of Railways & anr... **Respondents**

(2) OA No.1883/91

Sh.P.C.Kashyap &
others. **Applicants**

versus

Union of India through
Secretary,
Ministry of Railways & anr... **Respondents**

CORAM: THE HON'BLE SH.T.S.OBEROI, MEMBER(J)
THE HON'BLE SH.P.C.JAIN, MEMBER(A)

For the Applicants **Sh.B.S>Mainee,**
Counsel.

For the Respondents **Sh.Romesh Gautam,**
Counsel.

1. Whether local reporters may be allowed
to see the judgement? **Yes.**

2. Whether referred to the reporter or
not? **Yes.**

JUDGEMENT

(DELIVERED BY HON'BLE SH.T.S.OBEROI,
MEMBER(J))

In OA No.1862/91, there are 7 applicants,

while in the other(OA No.1883/91), there are

5 applicants. Misc.Petitions for filing joint

OAs in both the cases have been filed, on the

ground that they have common cause of action

and common reliefs have also been prayed for.

In OA 1862/91, Misc.Petition for joining together

was allowed, while in the other though there

is no specific order, keeping in view the

submissions in this regard, the same is also

allowed. Further, since questions of law as well as of facts, in both the OAs are broadly the same, both the OAs are being decided in this common judgement.

2. The applicants in both the OAs are aggrieved by Railway Board's Order No.E(NG)II/84/

RC3/15(AIRF), dated 15.5.87(Annexure A-1), whereby certain changes have been introduced in the

grade allowed in the case of Traffic/Commercial Apprentice, to be recruited after the issue of said order, while denying the same in respect of persons for these categories, recruited earlier, in accordance with the scheme already in vogue.

The grievance of the applicant is that whatever changes have been introduced vide the said order, in effect there is no change in the training curriculum and eventual quality of the training, who come out after the said training. The educational qualifications also remain the same, and in the scheme itself, it has been mentioned that those who have already been appointed as Traffic/Commercial Apprentice, in accordance with the earlier scheme, are not required to undergo any further training afresh. It has also been averred that a fairly large number of such Apprentices have already been

recruited, in accordance with the earlier scheme/ instructions, and that merely by updating the training syllabus would not make any real change or difference in the quality of the trained personnel, after undergoing the training, according to the new scheme and thus denying the persons earlier recruited the scale of pay of Rs.1600-2660, as per the impugned order dated 15.5.87, is highly discriminatory.

3. The applicants have also submitted that there have been a number of such OAs, filed by the affected persons, various Benches of this Tribunal, including the Principal Bench, and some of the judgements referred to by them, may be listed as under:-

(1) Sh.K.S.Kale and ors. Vs. Union of India and Others (OA 510/89) decided by the New Bombay Bench of this Tribunal on 28.8.90.

(2) Ashok Kumar and C.Sreekumar Vs. Union of India & ors. (OA K.59/88) decided by the Ernakulam Bench of this Tribunal on 24.1.1990.

(3) Rajesh Kumar and others Vs. Union of India and others (OA No.777 of 1991) decided by the Principal Bench at Delhi on 27.11.90.

(4) N.A.Khan and Others vs. Union of India & ors. (OA No.20/1989(L) decided by the Circuit Bench Lucknow on 7.1.91.

(5) M.Bhaskar and Others Vs. Union of India & Anr. (OA No.69/91) decided by the Hyderabad Bench on 7.8.1991.

In addition, the applicants have also annexed a copy of the judgement delivered in OA No.322/88 & OA No.488/87 by the Madras Bench of this Tribunal

on 4.12.89 (Annexure A-4 to OA 1862/91). The applicants in all these OAs have been allowed the pay scale of Rs.1600-2660 with effect from

15.5.87. The judgement in OA 1395/90 decided by this very Bench on 2.12.91 and another in

OA No.557/91 decided by a Single Member Bench have also been referred to on behalf of the applicants, in which too, the prayer of the applicants therein has been allowed, with effect

from 15.5.87. The applicants also averred that S.L.P. filed against the judgement of the Madras

Bench has been dismissed by the Supreme Court, vide a copy of the order filed as Annexure A-5 in OA No.1862/91. In view of all these submissions, they prayed for the same reliefs as allowed in the above-mentioned OAs, being granted to them also.

In the counter filed on behalf of the respondents, the applicants' case has been opposed on the ground of limitation as well as on the ground that any changes with a view to bring about improvements in the functioning of the Railway department, are matters of policy, and hence, are within the domain of administrative authorities concerned, and, therefore, beyond the scope of any interference by this Tribunal.

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They have also referred to a judgement dated

29.8.92 delivered in OA 920/88, by the New Bombay Bench of this Tribunal, in support of their contentions, in this regard. The respondents, therefore, prayed for dismissal of both these OAs.

5. We have considered the rival contentions, as briefly discussed above and have also perused

the material placed by both the parties, on record. Taking up the question of limitation, we find that the respondents have filed S.L.P.

against the judgement of the Madras Bench of this Tribunal, referred to earlier, which was dismissed by the Supreme Court on 23.7.90. The learned counsel for the applicants referred to another S.L.P. filed in OA 777/91 decided

by the Allahabad Bench of this Tribunal on 4.10.91, which too, has been dismissed by the Supreme

Court vide order dated 10.3.92. Thus, there

are not only several judgements of various Benches

of this Tribunal including the Principal Bench,

granting similar reliefs to the applicants therein,

there are two S.L.P.s including the one dated

10.3.92, filed by the respondents and dismissed

by the Supreme Court. The facts and circumstances

of the case in OA 920/88, decided by the Bombay

Bench, referred to by the respondents, in support of their contentions seem to be different,

and accordingly, accepting the predominant view of various other Benches, as discussed above, and dismissal of the respondents' SLPs, we grant the claim of the applicants in these two OAs as well. The respondents are accordingly directed to allow higher scale of pay of Rs.1600-2660 and fitment to the applicants with effect from 15.5.87, with all consequential benefits. This order shall be implemented by the respondents within a period of three months from the date of receipt of a copy of this judgement. There shall be no order as to costs.

A copy of this judgement be also placed in OA No.1883/91.

(P.C.JAIN)
MEMBER(A)

(T.S.OBEROI)
MEMBER(J)



CERTIFIED TRUE COPY

Date.....

Section Office

नेत्रीय प्रशासनिक अधिकारी

Central Administrative Tribunal

नेत्रीय प्रशासनिक अधिकारी

Prvate Bench, New Delhi