

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2303/2006

M.A. NO.1926/2004

New Delhi, this the 8th day of May, 2006

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

1. Gulshan Lal,
S/o Shri Tulsi Ram,
Office Address at Section Engineer,
Bridge, Northern Railway,
Pathankot - 145 001
2. Shri Abhai Singh
S/o Shri Sumer Singh,
Office Address at Section Engineer,
Bridges, Northern Railway,
Jalandhar City
3. Vijay Kumar,
S/o Shri Nikka Ram,
Office Address at Section Engineer,
Bridge, Northern Railway,
Pathankot -145001
4. Shri Satnam Singh,
S/o Shri Udham Singh,
Office Address at Section Engineer,
Bridges, Northern Railway,
Jalandhar City
5. Shri Balbir Singh,
S/o Shri Prem Singh,
Office Address at JE Plant,
Bridges Workshop,
Jalandhar Cantt.
6. Shri Chandra Mohan,
S/o Shri Dawarka Nath,
Office Address at Section Engineer,
Bridges Workshop,
Northern Railway,
Jalandhar Canntt.
7. Shri Parmod Kumar,
S/o Shri Jiwan Singh
Office Address at Senior Section Engineer,
Bridges Workshop,
Northern Railway, Jalandhar Canntt.

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8. Shri Peare Lal,
S/o Shri Rattan Chand,
Office Address at Senior Section Engineer,
Bridges Workshop,
Northern Railway
Jalandhar City
9. Shri Krishan Lal,
S/o Shri Dev Raj,
Office Address at Senior Section Engineer,
Bridge Workshop,
Northern Railway,
Jalandhar Canntt.
10. Shri Ramesh Kumar,
S/o Shri Mansa Ram
Office Address at Senior Section Engineer,
Bridge Workshop,
Northern Railway,
Jalandhar Canntt.
11. Shri Balwant Singh,
S/o Shri Mai Lal,
Junior Engineer, Bridges,
Spl-II, Shakurbasti
12. Shri Ramesh Chand,
S/o Shri Balori Ram,
Office Address at Section Engineer,
Bridges, Spl-I, Shakurbasti
13. Shri Satya Narain,
S/o Shri Baij Nath,
Office Address at Section Engineer,
Bridges, Barriely
14. Mohammad Bashir Ahmad,
S/o Shri Rahmat Ali,
Office Address at JE, Bridges,
Spl-I, Shakurbasti
15. Shri Prahlad,
S/o Shri Bharati Lal,
Office Address at Senior Section Engineer,
Bridge Workshop, Lucknow
16. Shri Pardeshi,
S/o Shri Ram Raj,
Senior Section Engineer,
Bridge Workshop, Lucknow

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17. Shri Kamal Kant,
S/o Shri Kanahaiya Lal,
Senior Section Engineer,
Bridge Workshop, Lucknow
18. Shri Girraj Kishore,
S/o Shri Nauji Ram,
Senior Section Engineer,
Bridge Workshop, Lucknow
19. Shri Ravinder Singh,
S/o Shri Phool Singh,
Senior Section Engineer,
Bridge Workshop,
Northern Railway, Lucknow
(All working as Storeman under Chief Bridge Engineer,
Northern Railway, Baroda House, New Delhi)

... APPLICANTS

(By Advocate: Shri C.Hari Shanker with Harpreet Singh)

VERSUS

1. Union of India
Through the Secretary, Ministry of Railway,
Rail Bhawan, New Delhi
2. The General Manager,
Northern Railway, New Delhi
3. The Chief Bridge Engineer,
Northern Railway,
Baroda House, New Delhi
4. The D.R.M., Northern Railway,
Ferozpur Cantt.
5. The D.R.M, Northern Railway
Lucknow
6. The DRM, Northern Railway,
New Delhi
7. The DRM, Northern Railway,
Moradabad
8. Chief Personnel Officer,
Baroda House, New Delhi

... RESPONDENTS

(By Advocate: Shri P.K. Yadav)



O R D E R

By Mukesh Kumar Gupta:

MA No 1926 of 2004 filed under Rule 4 (5) of C.A.T.(Procedure) Rules, 1987 seeking joining together in common OA is allowed as the nature of relief and cause of action is similar & identical.

2. By this OA, 19 Storemen, working under Chief Ridge Engineer, Northern Railway, seek direction to respondents to regularize them as Material Checkers from the date of abolition of the post of Storeman with consequential benefits and costs.

3. Shri C. Hari Shankar, learned counsel forcefully contended that issue raised herein is no longer res integra as identical issue had been agitated by 28 similarly placed Storemen vide OA No. 648/1999, (**Shri Sukhdev Singh & Ors. vs. The Secretary, Ministry of Railways & Ors.**), which was allowed vide Order dated 03.04.2003 with costs. Despite representation made on 31.3.2004 followed by reminder dated 09.06.2004, seeking extension of benefit of aforesaid judgment, no steps have been taken by Respondents.

4. Admitted facts of the case are that applicants, initially appointed as Khalasis, Bridge Branch of Civil Engineering Department, were subsequently promoted as Storemen. The standard designation of staff dealing with stores matters in Department other than Stores is Material Checker in grade of Rs.225-308, revised to Rs.825-1200/- which is a group 'C' post.

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28 officials being aggrieved by Respondents' action in not promoting them as Material Checking Clerks, after their redesignation as Material Checker (hereinafter referred as MC), which post was earlier designated as Storeman, approached this Tribunal vide OA No.648/1999, which was dismissed summarily vide order dated 2.7.2001. The aforesaid order had been challenged vide C.W.P No.778 of 2001 before Hon'ble Delhi High Court, which was allowed vide Order dated 29.07.2002, setting aside Tribunal's order & matter was remitted to this Tribunal for consideration afresh in accordance with law. The main contention of applicants had been that they were entitled to up-gradation as MC with consequential benefits as said post of Storeman stood abolished since 1979 and after re-designation they ought to have been considered, in accordance with seniority and relevant rules, which the Respondents had failed to do. The Respondents, on the other hand, contended that the said post stood abolished and re-designation of the post of Storeman was purely confined to the Stores Department and had nothing to do with the Bridge Department. After considering rival contentions of parties as well as various communications noticed therein, the OA was allowed with the following observations and directions:-

"9. From the above facts and circumstances of the case, it can undoubtedly be concluded that this litigation could have been avoided if the concerned officers of the Railway Administration had acted in accordance with the Rules at the relevant time which, according to their own counter affidavit, they have failed to do. However, taking into consideration the Railway Board's letter dated 20.7.1979, which admittedly relates to the redesignation of the posts of Storeman in Stores Department, we are unable to agree with the

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contentions of Shri C. Hari Shanker, learned counsel that a similar decision by the competent authority has been taken with regard to redesignation of the posts of Storemen in the Bridge Department. It is not disputed that for being considered for promotion/regularization to the posts of MCC, the relevant Rules have to be followed. In other words, only eligible persons who qualify according to the laid down procedure for promotion can be considered in the higher posts of MCCs. Therefore, the contention of the learned counsel for applicants that the applicants who were admittedly Storemen in Bridge Department have to be redesignated as MCs and then promoted as MCCs on the same lines is not accepted, as the Railway Board's letter dated 20.7.1979 would not automatically apply to their case. However, considering the fact that the issue of regularization/promotion of the Storemen in the Bridge Department who have been working and paid salary as Material Checkers has been engaging the attention of the respondents for a number of years, we see no reason why they should not take an appropriate decision in the matter, keeping in view all the relevant rules, including the Railway Board's letter dated 20.7.1979. In this regard, we are unable to agree with the contention of the learned counsel for the applicants that a decision by the Headquarters, Northern Railway is sufficient for the purpose of redesignating Storemen in Bridge Department as MCs because that decision will have to be taken by the competent authority i.e., the Railway Board as done by them in the letter dated 20.7.1979 for another Department.

10. In view of what has been stated above, the O.A. is disposed of with the following directions:

(i) Respondent No.2 that is the General Manager, Northern Railway, New Delhi shall place the relevant files on the question of redesignation of Storemen in Bridge Department in which considerable correspondence has been taking place at various levels before the Railway Board for an appropriate decision, as done in other concerned Department. This shall be done within three months from the date of receipt of a copy of this order;

(ii) The Railway Board shall also pass orders with regard to regularization of the 28 applicants in this OA, taking into account the peculiar facts and circumstances of the case, including the fact that they have stated that the concerned officers of the

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Bridge Department have been acting in an illegal and improper manner;

(iii) Respondent No.2, shall also take necessary action to fix responsibility on the concerned officials for the aforesaid illegal and improper actions which has led to the present protracted litigation, considering also the fact that the applicants are Group 'D' employees;

(iv) In the facts and circumstances of the case, the respondents are directed to pay costs of Rs. 500 (Rupees five hundred only) to each of the applicants in the OA. It will be open to the respondents to recover this amount from the concerned officials after fixing responsibility as above".

5. The aforesaid judgment has attained finality & implemented vide communication dated 10.3.2004 (A/4).

6. Respondents resisted the claim laid raising objections about the delay as well as non-impleadment of Union of India as a necessary party. On merits, it was stated that communication dated 10.3.2004 itself noticed that the competent authority implemented the Tribunal's direction, being under legal obligation. However, it decided not to treat the same as "**a precedence to any other similar case**" and further directed that identical cases seeking single relief be contested effectively.

7. Shri P.K. Yadav, learned counsel appearing for Respondents vehemently contended that since no application for condonation of delay has been filed, OA deserves dismissal. Reliance was placed on **Ratam Chandra Sammanta & Others vs. Union of India & Ors** (JT 1993 (3) SC 418), **P.K. Ramachandran vs. State of Kerala & Anr.** (JT 1997 (8) SC 189) and **Ramesh**

Chand Sharma Vs. Udham Singh Kamal & Ors (1999 (8) SCC 304).

8. The applicants by filing their detailed rejoinder while reiterating contentions raised in OA, controverted the stand taken by Respondents.

9. We heard learned counsel for parties and perused pleadings carefully.

10. So far as the question of impleadment of Union of India is concerned, since amended Memo of parties was filed, impleading Union of India, the said question became academic in nature, & therefore requires no finding.

11. The only question, which needs determination, is whether applicants are similarly placed to those in OA No.648 of 1999 (**Sukhdev Singh & Others vs. UOI & Ors.**). On perusal of said judgment vis-à-vis admitted facts of present case, we find similarity in all aspects. It is well settled law that Union of India as a model employer should extend the benefit of judgment to all similarly situated and should not drag each one of them to litigation, as it only creates anxiety in the mind of law abiding citizens but also costs to the exchequer. Besides this, the courts' time can be utilized for other pressing cases. As far as the question of limitation is concerned, we notice that it is well settled law as held by the Constitution Bench in **K.C. Sharma vs. Union of India & Ors.**, 1997 (6) SCC 721: AIR 1997 SC 3588, that Courts/Tribunal should not dismiss the just claim of similarly placed officials and refuse to condone delay. In our considered view, the findings recorded in **Sukhdev Singh** (supra) cannot be


taken as judgment in personam and has to be treated as judgment in rem. Moreover, the administrative authorities, cannot take a plea that the implementation of judgment of this Tribunal be not treated as precedent. The law does not give such power to Respondents to contend a judgment rendered by the competent court "not be treated as a precedence to any other similar case". This power rests only with the Court and to the Executive. In this view of the matter, we do not find any justification in Respondents' contention and the judgments relied upon are inapplicable. In these circumstances, applicants being similarly placed to Sukhdev Singh (supra), are entitled to similar treatment & extension of benefit of said judgment. We do not find further justification in the contention that the cause of action is not of recurring nature, as stated.

12. In view of the discussion made hereinabove, the OA is allowed. We reiterate directions issued in Sukhdev Singh (supra), namely:

- (i) Respondent No.2, that is the General Manager, Northern Railway, New Delhi shall place the relevant files on the question of redesignation of Storemen in Bridge Department in which considerable correspondence has been taking place at various levels before the Railway Board for an appropriate decision, as done in other concerned Department. This shall be done within three months from the date of receipt of a copy of this order;

- (ii) The Railway Board shall also pass orders with regard to regularization of the 19 applicants in this OA, taking into account the peculiar facts and circumstances of the case, including the fact that they have stated that the concerned officers of the Bridge Department have been acting in an illegal and improper manner as well as extend the same benefit as granted to Sukhdev Singh & Ors(supra);
- (iii) Respondent No.2 shall also take necessary action to fix responsibility on the concerned officials for the aforesaid illegal and improper actions which has led to the present protracted litigation;
- (iv) In the facts and circumstances of the case, the respondents are directed to pay costs of Rs.500/- (Rupees five hundred only) to each of the applicants in the O.A. It will be open to the respondents to recover this amount from the concerned officials after fixing responsibility as above.

The aforesaid exercise should be completed within a period of three months from the date of communication of this order.


(Mukesh Kumar Gupta)
Member (J)


(V.K. Majotra) 9/5/06
Vice Chairman (A)