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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 22 DAY OF APRIL, 1996

Original Application No. 191 of 1996

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA,MEMBER(A)

Jang Singh, aged about 23 years
S/o Sri Kunj Behari Singh
R/oNagra, Nainagarh, Behind
Indira Convent School, Jhansi.

Applicant

Versu

1. Union of India through General Manager, Central Railway Bombay V.T.

2. The Divisional railway Manager, Central Railway Jhansi

Respondents

Alongwith

Original Application No.193 of 1996

Rajendra Singh aged about 23 years
S/o Sri hukum Singh, R/o
Qr.No.966-A,T.R.S. Colony

RB-II, Prem Nagar, Jhansi

Applicant

Versus

1. The Union of India through General Manager, Central Railway Bombay V.T.

2. The Divisional railway Manager Central Railway Jhansi

Respondents

With

Original Application No. 195 of 1996

Baladhar aged about 21 years
S/o Shri Bansi Dhar, R/o 394
Outside Sayer Gate, Near B.I.C
College, Jhansi

Applicant

Versus

1. Union of India through General Manager, Central Railway, Bombay V.T.

2. The Divisional railway Manager, Cenetral Railway, Jhansi

Respondents

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With
Original Application No. 197 of 1996

Kuldeep Singh aged about 20 years
S/o Shri Shatrughan Singh
R/o House No. 192, Nai Basti, Jhansi

Applicant

Versus

1. Union of India through General Manager, Central Railway, Bombay V.T.

2. The Divisional Railway Manager Central Railway, jhansi

Respondents.

With
Original Application No. 299 of 1996

Balbir aged about 23 years
S/o Baboo Lal. r/o 1005/B,
RB-III, Mission Road, Jhansi

Applicant

Versus

1. Union of India through General Manager, Central Railway, Bombay V.T.

2. The Divisional Railway Manager Central Railway, Jhansi

Respondents

With
Original Application No. 303 of 1996

Bhajan Lal aged about 22 years
S/o Shri Mukandi Lal R/o House
No.171, Puliya No.9
Kabristan, Kachhiyana, Jhansi

Applicant

Versus

1. Union of India through General Manager, Central Railway
Bombay V.T.

2. The Divisional Railway Manager
Central Railway, Jhansi

Respondents

O R D E R(Reserved)

JUSTICE B.C.SAKSENA,V.C.

All these 6 O.As have been preferred by the wards

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of Railway servantss who are stated to have not participated in the All India strike in the year 1974. They have sought a direction to be issued to the respondents to consider their case for appointment under Loyal Quota and in case he is found fit, he be appointed on any suitable post within the period stipulated by this Tribunal.

2. All these OAs besides seeking the said direction also challenge separate order, passed in each of the cases, dated 6.9.95 by which the representation of the applicants made on 28.5.94 for appointment against Loyal Quota have been rejected on the ground that the matter cannot now be considered after a lapse of 21 years.

3. The brief facts in each of the OAs may be noted.

O.A. 191 of 1996

The applicant states that his father Sri Kunj Behari Singh is presently working as Highly skilled Fitter Grade I under the control of Foreman, Electric Locoshed. It has been indicated in this OA that pursuant to the statement given by the Minister for Railways in the parliament in the year 1974letter dated29.5.74 was issued inviting applications from those staff who worked, loyally during the recent strike period from 3rd May 74 to 28th May 74 and desire their son/daughter/dependent to be considered for appointment to class III and class IV categories may submit their applications to their respective Branch officers. It has been indicated in the said letter that the age limit for such appointment would be 18 to 25 years releaxable upto 30 years in cases of SC/ST candidates

as on June 1974. The last date for submission of the application was fixed as 20.6.74. It has been indicated that since the applicant was minor in the year 1974 as such his father was not able to prefer application for appointment of the applicant in Loyal Quota. The applicant alleges without indicating any proof that the respondents had assured that the appointment shall be provided on attaining majority in case the candidates approached. The applicant on his own showing attained majority in the year 1991.

O.A. 193 of 1996

4. This O.A. also contains identical pleas. The applicant on his own showing was minor in the year 1974 and attained majority in the year 1991. He had made a representation on 28.5.94 which was rejected by an order dated 6.9.95. The applicant has also filed copy of Ministry of Railway Board's letter dated 13.10.74.

5. O.A. 195/1996

In this OA the applicant alleges that he attained majoirty in the year 1993 and had made representation on 28.5.94 which was rejected vide order dated 6.9.95.

6. O.A. 197/1996

The applicant alleges that he attained majority in the year 1994. He made a representation on 28.5.94

The respondents did not take any decision on the same, therefore he filed Oa 1907/94 M.A. khan and Ors Vs. union of India and Ors. The Tribunal pleased to direct the respondents to consider the representation within a period of three months and it has now been done. The said representation has been rejected vide order dated 6.9.95.

OA 299/96

7. The pleadings in this OA are also identical as in the other OAS. The applicant alleges that in the year 1974 he was minor and attained majority in the year 1991. Thereafter he preferred a representation dated 28.5.94. Since no decision was being taken on the said representation he alongwith others filed OA 3/95 Balbir and Ors Vs. Union of India and Ors. The Tribunal vide an order dated 19.4.95 directed the said representation to be decided within a period of three months. That has now been done and it was rejected by order dated 6.9.95

O.A. 303/96

8. In this OA the applicant states that he was minor in the year 1974. He attained majority in the year 1992 and he preferred a representation on 28.5.94 which has evoked no response. Thereafter he filed OA 365/95 Jahangir Khan and another Vs. Union of India and ors in this Tribunal which was disposed of with a direction to dispose of the representation dated 28.5.94.

9. It is to be noted that the OAs filed by some of the applicants which have been referred to hereinabove were disposed of at the admission stage exparte with a direction to the respondents to decide the representation.

10. The facts in short, common to all the cases, are that during the year 1970-75, the applicants allege that, there had been number of agitations and work stoppage in the Railway. An All India strike was there in the month of May 1974. It is alleged that the then Railway Minister made an announcement in the Parliament that the services of each loyal staff would not go

unrecogniswed and that the system of giving appointment on compassionate grounds in class III and IV to sons/daughters/dependents of Railway employees can be extended in the case of employees who had rendered exemplary service during the strike period. The Railway Board accordingly issued a circular dated 13.2.74 in which it was indicated that 20% of the vacancies in class III service in initial recruitment grades should be filled by General Managers through their own administrative arrangements through the Railway Service Commission and bearing in mind Minister for Railways announcement in Parliament. It was also provided that all such appointments and details of the candidates be sent to the concerned Railway Service Commission who may scrutinise that the candidate fulfilling the prescribed qualification for the posts and thereupon accord their concurrence for appointment to the post.

11. The applicants further case is that an agreement was reached with the Union. Amongst the various privileges one was to give appointment to the wards of the loyal railway servants. Amongst the privileges one of the privilege indicated was that one advance increment shall be given to the loyal railway servant. The applicants have also indicated that some persons similarly situated had approached the Jaipur Bench of the Tribunal by means of OA 53/92. The Jaipur Bench of the Tribunal passed the following order:

" We would not like to enter into any

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controvercy at this stage particularly when the matter has to be examined on merit separately. We direct the respondents to consider and allow the benefits which are permissible to those teachers of Jaipur, Kota and Ajmer Divisions who fulfill the requirement of letter dated 26.8.76, if not allowed so far."

12. In some of the OAs reference has also been made to an order passed in OA 356/95 on 21.4.95 by a Division Bench of the Allahabad Bench of CAT. A direction was given to the respondents to decide the representation dated 28.5.94 and dispose of the same by reasoned and speaking order within the period of three months. In most of the above OAs the representations have been considered and rejected vide order passed on 6.9.95.

13. All these OAs have come up for orders as regards admission. We have heard the learned counsel for the parties. Shri Rakesh Varma appeared as counsel for the applicant in all the OAs.

14. The respondents have filed a counter affidavit in an OA which was decided at the admission stage in which it has been indicated that identical matter has been considered by the Division Bench of the Principal Bench of CAT and an order was passed on 8.2.95 holding that the OA was not maintainable. The view taken in the said decision was that the benefit provided by circular of 1974 could have been availed of only by the Railway servants who had not participated in the All India Strike and it was not open to the wards to claim that benefit which was only to be asserted to only by

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such loyal employees at the relevant time. The said Division Bench also took into consideration the direction given by the Jaipur Bench and this Bench also and have taken the view that the order passed by the Allahabad Bench is perincurium inasmuch as no direction could be issued to the respondents on their absence without calling them. It was also hjeld that the applicants who filed OA 610/94 had no vested right or any right in them for making such a representation. There was no provision of making such a representation given to the wards of the alleged loyal railway employees. In the said decision it was also noted that the Hon'ble Supreme Court has deprecated the tendency of back door entry into the service has held in the case of Delhi Development Horticulture Employees Union Vs. Delhi Administration reported in 1992(21) ATC pg 386. We are also in respectful agreement with the view taken by the said Division Bench of the Principal Bench that the circular was issued in the year 1974 and applicants after 21 years cannot be permitted to raise the issue and make a claim. It was also held by the said D.B that the directions given in the other OAs did not give rise to cause of action to the applicants before them. The OA 252/94 was dismissed at the admission stage.

15. The learned counsel for the applicant has not been able to indicate any point to disctinguish the view taken by the Principal Bench. We, therefore, hold that the OAs are not maintainable. The claims for even consideration for appointment of wards of loyal railway servants at the behest of the wards are not maintainable. It has not been shown that the other alternative benefits which were indicated in the

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circulat letter had not been availed of or given to the father of the applicants.

16. On a conspectus of the discussion hereinabove, the OAs are dismissed summarily.

MEMBER(A) VICE CHAIRMAN

Dated: April.22, 1996

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