

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

O.A. No. 740/93

Allahabad this the <sup>12<sup>th</sup></sup> day of 1997.

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

HON. MR. D.S. BAWEJA, MEMBER(A)

A.R. Kureel, Chief T.T. Inspector, N.E. Railway,  
Gorakhpur(East), Varanasi Division.

By Advocate Shri R.P. SRIVASTAVA  
versus

Petitioner

1. The Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. The General Manager(P), N.E. Railway, Gorakhpur.
3. The Divisional Railway Manager, N.E. Railway, Varanasi.

Respondents.

By Advocate Shri A.K. GAUR

O R D E R (RESERVED)

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

Through this O.A the applicant has claimed that a mandatory direction be issued to the respondents that the judgment of the Central Administrative Tribunal Patna Bench in the case of Ram Bali vs. Union of India, Case No. 8-89/1986 decided on 7.1.87 is a judgement in rem and is applicable to all the similarly situated staff whether he was a party to the suit or not. "

2. A further relief has been prayed for a direction to treat the applicant as supervisory staff and grant him the scale of Rs 550-750 instead of Rs 425-640 from 24.7.72 to 31.12.83. A further relief prayed for is for issuing of <sup>assigning</sup> seniority to the applicant in the grade of Rs 700-900 above Shri Ram Bali and to promote the applicant in this grade from the date Shri Ram Bali has been promoted and the arrears be allowed to the applicant.

for

3. The applicant submitted a representation dated 19.9.90 to G.M. (P), N.E. Railway Gorakhpur claiming the applicability of the order passed in Ram Bali's case. In reply to the said application, by letter dated 24.8.92 the applicant was informed that the judgment in <sup>to him</sup> the case of Ram Bali does not have the general application, hence his representation was rejected. The parties have exchanged their pleadings. Counter affidavit and the Rejoinder affidavits have been filed and we have heard the learned counsel for the parties.

4. On behalf of the respondents it has been pleaded that the order passed by the Patna Bench of the Tribunal in Ram Bali's case is a judgment in personem and not <sup>a</sup> the judgment in rem. They have also pleaded that the applicant was working as T.T.I. in the grade Rs 425-640 from 24.1.75 <sup>and not from</sup> instead of 24.7.72, as alleged by the applicant. At the hearing, the learned counsel for the respondents submitted that the O.A. is highly barred by limitation. The applicant has submitted his representation on 19.9.89 claiming the benefit of seniority and promotion with effect from 24.7.72 and 31.3.79.

5. The question which calls for adjudication in the present case is whether the decision in Ram Bali's case by the Patna Bench of the Tribunal can be said to be a judgment in rem or an order in personem. We have very carefully gone through the said order and are unable to find that any proposition of law or interpretation of any given rule was involved in the said case. The <sup>conclusions of facts</sup> decision in the said case has been recorded and reached on the basis of the pleadings in the said O.A. and from the documents on record in the said O.A. The said decision clearly is not a judgment in rem, but is a judgment in personem and would govern <sup>only</sup> the rights of the parties thereto.

6. The learned counsel for the applicant cited a decision of a learned single Member of the Ernakulam Bench of the

BCR

Tribunal by which bunch of the O.As were decided, the leading O.A. being C.R. Madhavan vs. Regional Director E.S.I C. and others. The said decision is reported in (1990)13, A.T.C., page 89. From a bare perusal of the said order it would be evident that therein the nature of feeder post and principle for fixation of pay on promotion was involved in an earlier case and it was held that the said judgment of the Tribunal was a judgment in rem and applicable to all similarly placed persons whether or not party thereto. That is not the situation in the present case. No proposition of law of binding effect has been laid down in Ram Bali's case. The conclusions ~~that~~ have been reached purely on the basis of facts proved in the said case.

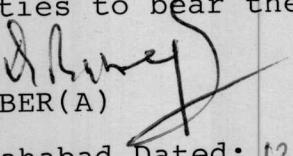
7. Next the learned counsel for the applicant cited a decision of Ahmedabad Bench of the Tribunal in N.K. Patel and others vs. Union of India and others reported in (1990) 24, A.T.C. page 581. In the said case, the proposition of law laid down in earlier cases that reservation for SC/ST candidates is to be made on the basis of posts and not on the basis of vacancies was involved. It was held that the judgments of the Tribunal for interpretation of any law or rule dealing with service matters would have binding effect and would be judgment in rem. There can be no dispute ~~that~~ with this proposition but we are unable to hold that the order passed in Ram Bali's case can be said to be an order in rem. Neither any rule or principle of law has been laid down in the said case.

8. The other question ~~that~~ arises is whether this O.A. is barred by limitation. As has been held by the Allahabad Bench, of which one of us was a member, that a decision of a Tribunal or court does not give rise to fresh cause of action. The said view was taken in O.P. Satija and others vs. Union of India and others reported in (1995) 29, A.T.C, page 1. In the said case, the decisions of the Hon.

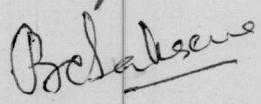
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Supreme Court in Bhoop Singh vs. Union of India and others and Ratan Chand <sup>Samant</sup> besides other cases have been relied upon. Applying the ratio of the said decision <sup>in</sup> the facts of the present case it has to be held that the decision in Ram Bali's case did not give fresh cause of action in favour of the applicant. He is claiming as a matter of <sup>fact</sup> <sup>a</sup> <sup>right</sup> <sup>the</sup> relief based on cause of action which arose on 24.7.72 and 31.12.83. A perusal of the order passed by the Patna Bench in Ram Bali's case further shows that the relief to Ram Bali was granted on the basis of a Patna High Court judgment in C.W.J.C. No. 4428/1978 passed on 29.4.80 holding the applicant as entitled to be treated as Travelling Ticket Inspector from 22.7.75 in the pay scale of Rs 550-750. The decision in Ram Bali's case further shows that inspite of the aforesaid order the benefit to Ram Bali at grade Rs 550-750 from 22.7.75 was not being given to him. He filed contempt petition which was registered as MJC No. 307 of 1982 and it was after this that the railway authorities relented and granted the benefit to Shri Ram Bali. Ram Bali, therefore, had been agitating for his right ever since 1978. Even so, when he filed O.A. in 1986, the Patna Bench of the Tribunal held the claim for the arrears of salary and allowances to be barred by limitation. It would be further useful to refer to the decision of the Hon'ble Supreme Court in the case of Central Hospital vs. Savita S Bodke and others reported in 1995(31), A.T.C. page 198 SC. In the said case the services were terminated on 8.3.82 and the O.A. was filed before the Tribunal in the year 1992. The Hon'ble Supreme Court held the O.A. to be highly belated and thus beyond the jurisdiction of the Tribunal to entertain the same.

9. In view of the discussions hereinabove, the O.A. deserves to be dismissed and is accordingly dismissed. Parties to bear their own costs.

  
MEMBER (A)

Allahabad Dated: 12-11-97

  
VICE CHAIRMAN