

Date of Order : 18.08.2000

O.A. No. 28/1995

&

O.A. No. 281/1996

(14)

1. Hari Charan Gehlot, aged about 41 years S/O Shri Matadeen, by caste Gehlot (Scheduled Caste) R/O Rampura Basti, Gali No.11, Bikaner.
2. Choru Lal, aged about 47 years, S/O Shri Asu Ram, by caste Kachhawaha (Mali) R/O Outside Idgah Bari, Nathusar, Maliyon-ka-Mohalla, Bikaner.
3. Mohammed Hassan, aged about 38 years, S/O Shri Shamschoo Deen, by caste Musalman, R/O Vyoparion-ka-Mohalla, Tajiyan-ki-Gali, Bikaner.
4. Azad Singh, aged about 44 years, S/O Shri Bhagwan Singh, by caste Rajput, Lalgarh, Bikaner.
5. Narain Dass, aged about 43 years, S/O Shri Suraj Karanji, by caste Bohra, Outside Nathusar Gate Near Lalibai Bagechi, Bikaner.
6. Nath Mal, aged 54 years, S/O Shri Kripa Ram, by caste Chhipa R/O Raghunathsar-ka-Kua, Near Bheruji Chowki, Bikaner.

... Applicants
(in OA No.28/95)

Vs

1. The Union of India through the General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Bikaner.

... Respondents
(in OA No.28/95)

1. Tulshi Ram Mishra S/O Shri Ram Dulari Mishra, Clerk under Assistant Engineer, Suratgarh, Northern Railway, Suratgarh.

... Applicant
(in OA No.281/96)

Vs

1. Union of India through the General Manager, Northern Railway, Head quarters, Baroda House, New Delhi.

Contd...2



2. Divisional Railway Manager, Northern Railway,
Bikaner.
3. Senior Divisional Personnel Officer, Northern
Railway, Bikaner.
4. Assistant Personnel Officer, Northern Railway,
Bikaner.

... Respondents
(in OA No.281/96)

Mr. M.S. Singhvi, Counsel for the Applicants(in O.A.No.28/95)
Mr. R.K. Soni, Counsel for the Respondents(in OA No.28/95)
Mr. N.K. Khandelwal, Counsel for the Applicant(in OA 281/96)
Mr. V.D. Vyas, Counsel for the Respondents(in OA 281/96)

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

The controversy involved and the relief sought
in both these applications is the same and, therefore,
these applications are being disposed of by this single
order.

2. In these applications' under Section 19 of the
Administrative Tribunals Act, 1985, applicants have
prayed for a direction to the respondents to treat the
applicants as regular Clerks from the date of their
initial appointment as Clerk grade 225-308/260-400 and
seniority from that date in cadre of Clerk, with all
consequential benefits.

3. Applicants' case is that they were initially
appointed as Clerk/Store issuer on passing the selection
test during the year 1979-80. That they were given the
scale of 225-308, which was not the prevalent scale at

Contd...3



that time. Respondents again held selection to the post of Clerk scale 260-400 in 1983. Having qualified in this selection, the applicants were upgraded to the scale of 260-400. Subsequently, posts in the scale of 225-308 were upgraded to the scale of 260-400 vide respondents' letter dated 20.12.1980 (Annexure A/5). This upgradation was effective from 01.10.1972. That the applicants were entitled to fixation of pay in the scale of 260-400 w.e.f. 01.8.1978 or from the date of actual promotion in the clerical cadre, but the applicants have been given fixation arrears from 31.8.1981 and 21.12.1992 respectively. Despite repeated representation from the applicants, the respondents have not given their seniority from their initial date of appointment in clerical cadre. Hence, this application.



4. Notices were issued to the respondents and they have filed their reply.

5. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

6. This controversy had come up earlier before this Tribunal in TA No.01/85, 08/85 and 11/85 (Annexure A/4) decided on 24.1.1986, wherein it was held that the factum of temporary down grading of such posts is of no consequence. It was further held that the applicants would continue to hold the post (Clerk) in the scale 260-400 with all consequential benefits. Accordingly, the respondents allowed the seniority to applicants therein in the cadre of Clerk from their initial date of appointment in the scale of 225-308. Apparently, the present case

Contd...4

(13)

is fully covered by this Tribunal's order dated 24.1.1986 in T.A. No.01/85, 08/85 and 11/85 and order dated 13.2.1992 (Annexure A/16) in Contempt Petition thereof.

7. However, we find that the applications are hit by limitation. The scale of Rs.225-308 in which the applicants were appointed was upgraded to 260-400 vide respondents letter dated 20.12.1980 (Annexure A/5). This upgradation was effective from 01.10.72 and the applicants were entitled to fixation of pay in the scale of Rs.260-400 w.e.f. 1.10.78 from the date of actual promotion in the clerical cadre. However, the applicants were given pay fixation arrears from 31.8.81 and 21.12.92 respectively. Thus, the cause of action had arisen in the year 1981. Some of the similarly situated person had approached the High Court and this Tribunal in the year 1985 and they were allowed the benefit as discussed above, vide this Tribunal's order dated 24.1.1986 in TA No. 1,8,811 of 1985. They could have at least approached the Tribunal immediately after the order dated 24.1.86. However, all of them kept quite for the reasons best know to them. They have now approached the Tribunal in 1995 1996 almost ten years after the order of this Tribunal. As a matter of fact they were sleeping over their rights for more than ten years. The law cannot come to the rescue of such persons.

8. In the light of above discussion, we are of the view that the applications are hit by the law of limitation and deserve to be dismissed.

9. The Original Applications are accordingly dismissed with no order as to costs.

Sd/-
(GOPAL SINGH)
ADM. MEMBER

प्रमाणित सही प्रतिलिपि

Sd/-
(B.S. RAIKOTE)
VICE CHAIRMAN

23/8/2000

अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर

J

ARC
CY
28/8
Van 24/8/00

Part II and III destroyed
in my presence on 2-10-7
under the supervision of
Section Officer (1) as per
order dated 1/10/1967
NAGW 9/10/7
Section Officer (Records)