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CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

M.A.No. 75/2003 in O.A.No.97/2003

Date of Decision : this the 1st day of June, 2004

**Hon'ble Mr. G.R.Patwardhan,
Administrative Member**

Smt. Chandrawati Wife of Late Sh. Som Prakash
Sharma, Ex. Chief Inspector Tickets, Northern Railway,
Bikaner C/o Sh. Ravindra Kumar Sharma,
R/o Behind Chopra Katla, Rani Bazar, Bikaner
(Raj) 334 001.

.....Applicant.

[By Mr. Bharat Singh, Advocate, for applicant]

Versus

1. Union of India through General Manager
North West Railway Headquarters,
Old Loco Colony Area,
Jaipur.
2. Divisional Railway Manager,
North West Railway, Divisional Office,
Bikaner (Raj) 334 001.
3. Divisional Personnel Officer,
North West Railway, Divisional Office,
Bikaner (Raj) 334 001.

.....Respondents.

[By Mr. Manoj Bhandari, Advocate, for respondents]

Order

[By the Court]

M.A.No. 75/2003 in OA No. 97/2003 has been preferred by

Smt. Chandrawati widow of late Shri Som Prakash Sharma, who
retired as Chief Inspector of Tickets, Northern Railway,
Ratangarh against the Union of India through the General
Manager, North-West Railway, Jaipur. It is the case of the
applicant that her husband late Shri Som Prakash Sharma got

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employed in the then Bikaner State Railway on 1.1.1945 and that he had opted for pension scheme. It is her case that the Divisional Personnel Officer issued an order on 11.12.2000 revising the pay scale of late Shri Som Prakash and the applicant submitted representation on 16.4.2002 to pay to the applicant difference of retiral benefits between the pay scale of Rs. 425-640 and Rs. 700-900 from 1.6.1980 with periodical due revisions but this was rejected by order dated 10.9.2002. The applicant, therefore, submits that the O.A. filed on 16.4.2003 is, well within the limitation – the period between 10.9.2002 to 16.4.2003 being less than one year and thus within the stipulated period under the C.A.T. Act and the Rules. The application ends with a prayer that if at all it is considered a delayed application then the same may be condoned.

This is what is contained – essentially – in the MA and it must be recorded that it leaves many things for surmises. It may therefore, be appropriate to come to the O.A. to appreciate the matter better. The applicant submits that her husband late Shri Som Prakash, who got employed on 1.1.1945 filed an application under section 330 (2) of the Industrial Disputes Act, 1947 for upgradation of his pay scale to Rs. 700-900 from Rs. 425-640 on the ground that his juniors were so placed and that application was allowed by the Central Labour Court and a Writ Petition against this decision was also rejected by the Hon'ble Rajasthan High Court. No copy of either the order of Labour Court or of the High Court has been appended with the application. However, a copy of letter of the Divisional Railway Manager, Northern



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Railway, Bikaner, dated 16.11.2000 has been enclosed as Annex.A/2 where the following paragraph – which is very crucial for adjudicating the application - finds place :-

"Hon'ble Labour Court/Jaipur has decided this application with the direction that the applicant is entitled to Rs. 1775-25- in the grade Rs. 700-900 (RPS) by way of computation along with interest @ 12% per annum if the said amount is not paid within three months vide order dated 30.11.1993 (copy enclosed)."

It becomes clear that what the Labour Court allowed was a particular pay to the applicant i.e. Rs. 1775-25 by way of computation and not the pay scale. This is followed by Annex.A/3 dated 11.12.2000 which is a letter from the Divisional Personnel Officer, Northern Railway, Bikaner addressed to the Superintendent of Bill Section to arrange payment of this amount of Rs. 1775-25 along with interest at the rate of 12%. However before these letters could be issued Shri Som Prakash, husband of the applicant died on 25.4.1995 and the amount calculated as described above, was paid to the widow through a cheque on 22.11.2002 (Annex.A/5). It seems the applicants submitted representations on 16.4.2002 to claim difference of amount between the two pay scales as also subsequent revisions vide Annexs. A/6 and A/7 and followed it up by another representation to give difference of full pension and other retiral benefits up to the life time of late Shri Sharma. This was on 25.4.1995 (para 4.10 of the application). This resulted in a reply from the Divisional Personnel Officer, Bikaner dated 10.9.2002 by which the applicant was informed that they have carried out the orders of Central Labour Court dated 30.11.1993 by issuing



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orders dated 11.12.2000 and that nothing more is payable as per the Court's order. This is placed at Annex.A/1 and is what is specifically challenged in this application.

2. At this stage it needs to be recorded that the applicant has not appended copy of order of the Central Labour Court or of the High Court in the Writ Petition to which she has made reference.
3. Detailed reply has been filed and that is on record in the O.A. as well as in the M.A.
4. On the last date, the learned advocates for both the parties have been heard. It would be appropriate first to consider the M.A. and its reply and then only proceed, if necessary, to consider the O.A. At the preliminary stage itself, the respondents Union of India through the General Manager, North-West Railway (successor Northern Railway, Bikaner) have taken the stand that this Tribunal has no jurisdiction to decide the controversy as the prayer of the applicant is for claiming benefits w.e.f. 1.1.1979 which cannot be granted by filing a O.A. as the Tribunal itself came into existence in 1985 and it has no jurisdiction to hear or adjudicate any matter that arose before three years of its inception. They have further said that the delay in filing the present O.A. has not been explained clearly and the applicant cannot take recourse of challenging Annex.A/1 which according to them is dated 10.6.2002 but which the applicant would like the Tribunal to believe to have obtained in

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September 2002. Since the letter is only an indicator of the status of her representation which itself admittedly was filed after the death of her husband in 1995 it is submitted that this is not a cause of action. It has also been argued by the learned counsel for respondents that nowhere the Central Labour Court has revised the pay scale of the applicant, but it has only ordered payment of difference of pay which is clear from communication enclosed by the applicant herself which are available at Annexs. A/2 and A/3 of the O.A.

5. This has been replied to by the learned counsel for the petitioner by saying that pension receivable is a continuing cause of action and all that they are demanding is review of the family pension which cannot be barred by limitation.
6. As has been observed in the initial paragraphs, nothing can be discerned conclusively with respect to claim of the petitioner about revision of pay scales as she has failed to enclose copy of the order passed by the Central Labour Court. In absence of such an order, the orders Annex.A/2 and A/3 relied upon by the applicant make it very clear that what was sanctioned was a particular amount and not a particular pay scale by such Court. More particularly these orders/actions are dated 16.11.2000 and 11.12.2000 and could have been agitated much earlier. Even the husband of the applicant had an adequate opportunity to do the same because admittedly the Central Labour Court passed its orders some time in 1993 and

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Shri Som Prakash Sharma was alive till 25.4.1995. As the applicant is silent on the efforts that were made to get these orders clarified or revised, it is to be presumed that no such effort was made. It also appears strange that the orders of the Central Labour Court be challenged obliquely through an O.A. in the Tribunal. That being the case, it is difficult to allow consideration of the matter by the Tribunal.



7. It is therefore, to be held that the matter is barred by limitation. That being the case, the M.A. has no merit and stands rejected accordingly. The O.A. also is dismissed. No orders as to costs.

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[G.R.Patwardhan]
Administrative Member

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Regd. D.D. & Copy Order
Send to Stan Shoop Corp
Attn. M. D. C. 162 on 4/6/04